



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 2  
290 BROADWAY  
NEW YORK, NY 10007-1866

SEP 16 2011

**CERTIFIED MAIL - RETURN RECEIPT REQUESTED**

**Article Number: 7005 3110 0000 5970 5308**

Supervisor Mark Lesko  
Town of Brookhaven  
1 Independence Hill  
Farmingville, NY 11738

Re: **Administrative Order CWA-02-2011-3054**  
**Town of Brookhaven Municipal Separate Storm Sewer System**  
**SPDES Permit No. NYR20A411**


Dear Supervisor Lesko:

The United States Environmental Protection Agency ("EPA"), Region 2, has made a finding that the above-named facility, Town of Brookhaven ("Brookhaven" or "Town"), is in violation of the Clean Water Act (33 U.S.C. § 1251 *et seq*) ("CWA" or "Act") for State Pollutant Discharge Elimination System ("SPDES") violations as described in the findings of this ORDER. Enclosed are two (2) originals of this ORDER, issued pursuant to Sections 309 and 308 of the Act, which detail the findings.

Please acknowledge receipt of this ORDER on one of the originals and return it by mail in the enclosed envelope. Failure to comply with the enclosed ORDER may subject the facility to civil/criminal penalties pursuant to Section 309 of the Act. Failure to comply with this ORDER shall also subject the facility to ineligibility for participation in work associated with Federal contracts, grants or loans.

If you have any questions regarding this ORDER, please contact Ms. Kimberly McEathron, Water Compliance Branch, at (212) 637-4228.

Sincerely,

  
Dore LaPosta, Director  
Division of Enforcement and Compliance Assistance

Enclosures

cc: Joe DiMura, P.E., Director, Bureau of Water Compliance Programs, NYSDEC  
Bill Spitz, NYSDEC, Region 1  
Sara Dorman, Region 1 (electronic)

**UNITED STATES  
ENVIRONMENTAL PROTECTION AGENCY  
REGION 2**

**IN THE MATTER OF:**

Town of Brookhaven  
1 Independence Hill  
Farmingville, NY 11738

**SPDES Permit No. NYR20A411**

Proceeding pursuant to Sections 308(a) and  
309(a)(3) of the Clean Water Act, 33 U.S.C.  
§§ 1318(a) and 1319(a)(3)

**ADMINISTRATIVE  
COMPLIANCE ORDER**

**CWA-02-2011-3054**

The following Findings of Violation are made, and Order for Compliance ("Order") issued, pursuant to Sections 308(a) and 309(a)(3) of the Clean Water Act ("CWA" or "Act"), 33 U.S.C. §§ 1318(a) and 1319(a)(3). This authority has been delegated by the Administrator of the United States Environmental Protection Agency ("EPA") to the Regional Administrator, EPA Region 2, and since further redelegated to the Director, Division of Enforcement and Compliance Assistance, Region 2, EPA.

**A. Legal Authority**

1. Section 301(a) of the CWA, 33 U.S.C. § 1311(a), prohibits the discharge of pollutants from a point source into waters of the United States, except in compliance with, *inter alia*, Section 402 of the CWA, 33 U.S.C. § 1342.
2. Section 402(a)(1) of the CWA, 33 U.S.C. § 1342(a)(1), provides that pollutants may be discharged only in accordance with the terms of a National Pollutant Discharge Elimination System ("NPDES") permit issued pursuant to that Section.
3. Section 402 of the CWA, 33 U.S.C. § 1342, authorizes the Administrator of EPA to issue a NPDES permit for the discharge of any pollutant, or combination of pollutants subject to certain requirements of the CWA and conditions which the Administrator determines are necessary. The New York State Department of Environmental Conservation ("NYSDEC") is the agency with the authority to administer the federal NPDES program in New York pursuant to Section 402 of the CWA, 33 U.S.C. § 1342. EPA maintains concurrent enforcement authority with authorized states for violations of the CWA. Additionally, under the authority granted to the NYSDEC by the EPA under Section 402(b) of the CWA, 33 U.S.C. § 1342(b), a State Pollutant Discharge Elimination System ("SPDES") permit is required to be issued to facilities by the NYSDEC for the discharge of pollutants from said facilities from a point source to a navigable water of the United States.

4. "Person" is defined by Section 502(5) of the CWA, 33 U.S.C. § 1362(5) to include an individual, corporation, partnership, association or municipality.
5. "Pollutant" is defined by Section 502(6) of the CWA, 33 U.S.C. § 1362(6) to include among other things, solid waste, dredged spoil, rock, sand, cellar dirt, sewage, sewage sludge and industrial, municipal and agricultural waste discharged into water.
6. "Point source" is defined by Section 502(14) of the CWA, 33 U.S.C. § 1362(14) to include any discernible, confined and discrete conveyance, including but not limited to any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, concentrated animal feeding operation, or vessel or other floating craft, from which pollutants are or may be discharged.
7. "Navigable waters" is defined by Section 502(7) of the CWA, 33 U.S.C. § 1362(7) to include the waters of the United States.
8. "Discharge of a pollutant" is defined by Section 502(12) of the CWA, 33 U.S.C. § 1362(12) to include any addition of any pollutant to navigable waters from any point source.
9. Section 402(p) of the CWA, 33 U.S.C. § 1342(p) sets forth the requirements for the discharge of stormwater, including discharges of stormwater from Municipal Separate Storm Sewer Systems ("MS4s").
10. 40 C.F.R. § 122.26(b)(8), defines an MS4 as a "conveyance or system of conveyances (including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, man-made channels, or storm drains): (i) owned or operated by a state, city, town, borough, county, parish, district, association, or other public body (created by State law).....that discharges into waters of the United States; (ii) designed or used for collecting or conveying stormwater; (iii) which is not a combined sewer; and (iv) which is not part of a Publicly Owned Treatment Works..."
11. 40 C.F.R. § 122.26(b)(3) defines "incorporated place," in part, as a city, town, township, or village that is incorporated under the laws of the State in which it is located.
12. 40 C.F.R. § 122.26(b)(16)(ii) defines "small municipal separate storm sewer system," in part, as not defined as "large" or "medium" MS4s.
13. Pursuant to 40 C.F.R. § 122.32(a)(1), all small MS4s located in an "urbanized area" (as determined by the latest Decennial Census by the Bureau of Census) are regulated small MS4s.
14. 40 C.F.R. §§ 122.33(a) and (b) require operators of regulated small MS4s to seek authorization to discharge under the applicable NPDES general permit issued by the permitting authority, by submitting a Notice of Intent ("NOI") for coverage under such permit.
15. NYSDEC issued SPDES General Permit for Storm Water Discharges from MS4s (GP-0-10-002) ("Permit") in April 2010. The Permit became effective on May 1, 2010 and expires on April 30, 2015. The Permit supersedes the previous SPDES permit (GP-0-08-002), which became effective on May 1, 2008 and expired on April 30, 2010, and SPDES permit (GP-02-02), which became effective on January 8, 2003 and expired on January 8, 2008. SPDES permit (GP-02-02) was administratively extended until April 15, 2008, when SPDES permit (GP-0-08-002) was issued.

16. Part IV.A of the Permit requires the permittee to develop, implement and enforce a Storm Water Management Program ("SWMP") designed to reduce the discharge of pollutants to the maximum extent practicable ("MEP").
17. Part IV.F of the Permit requires the permittee to develop and implement a SWMP that satisfies the requirements of the six minimum control requirements ("MCM") in Part VII of the Permit.
18. Part IV.G of the Permit requires that the permittee must, through a signed certification statement, contract or agreement, provide adequate assurance that the third parties will comply with permit requirements applicable to the work performed by the third party.
19. Part V.A of the Permit requires the permittee to conduct an annual evaluation of its program compliance, the appropriate Best Management Practices ("BMPs"), and progress towards achieving its identified measurable goals, which must include reducing the discharge of pollutants to the MEP.
20. Part V.C.1 of the Permit requires annual reports to be submitted by the permittee and received by NYSDEC by June 1 of each reporting year.
21. Part V.C.3 of the Permit requires the permittee to include any change in identified BMPs or measurable goals and justification for those changes in the annual report.
22. Part V.C.3.b of the Permit requires annual reports submitted by the permittee to include at a minimum an assessment/evaluation of the appropriateness of the identified BMPs; progress towards achieving the statutory goal of reducing the discharge of pollutants to the MEP; and the identified measurable goals for each of the MCMs.
23. Part VII.A.2.d.i of the Permit requires that the permittee must, prior to submitting the final annual report to the NYSDEC, present the draft annual report in a format that is open to the public, where the public can ask questions about and make comments on the report.
24. Part VII.A.4.a.ix of the Permit requires the permittee to develop, implement and enforce a construction site stormwater runoff control program that describes procedures for site inspections and enforcement of erosion and sediment control measures, including steps to identify priority sites for inspection and enforcement based on the nature of the construction activity, topography, and the characteristics of soils and receiving water.
25. Part VII.A.4.a.xi of the Permit requires the permittee to develop, implement, and enforce a program that ensures that construction site operators have received erosion and sediment control training before they do work within the covered entity's jurisdiction and maintain records of that training.
26. Part VII.A.6.a.i of the Permit requires the permittee to develop and implement a pollution prevention / good housekeeping program for municipal operations and facilities that addresses municipal operations and facilities that contribute or potentially contribute Pollutants of Concern ("POCs") to the small MS4 system. The operations and facilities may include, but are not limited to: street and bridge maintenance; winter road maintenance; stormwater system maintenance; vehicle and fleet maintenance; park and open space maintenance; municipal building maintenance; solid waste management; new construction and land disturbances; right-of-way maintenance;

marine operations; hydrologic habitat modification; or other.

27. Part VII.A.6.a.ii of the Permit requires that the permittee must: at a minimum frequency of once every three years, perform a self assessment of all municipal operations addressed by the SWMP to: determine the sources of pollutants potentially generated by the permittee's operations and facilities; and identify the municipal operations and facilities that will be addressed by the pollution prevention and good housekeeping program, if it is not done already.
28. Part VII.A.6.a.vi of the Permit requires the permittee to develop and implement a pollution prevention/good housekeeping program for municipal operations and facilities that includes an employee pollution prevention and good housekeeping training program and ensures that staff receive and utilize training.
29. Part VII.A.6.e of the Permit requires that the permittee adopt techniques to reduce the use of fertilizers, pesticides, and herbicides, as well as potential impact to surface water.
30. Part IX.C.1.b of the Permit requires that the permittee must develop, or acquire if currently available, specific educational material dealing with sources of pathogens in stormwater and pollutant reduction practices. At a minimum, the educational material should address septic systems, geese and pets as a source of pathogens.
31. Part IX.D.1.b of the Permit requires that the permittee must develop, or acquire if currently available, specific educational material dealing with sources of nitrogen in stormwater and pollutant reduction practices. At a minimum, the educational material should address septic systems as a source of nitrogen and nitrogen concerns with fertilizer use.
32. Part IX.D.6.a of the Permit requires that the permittee must develop a turf management practices and procedures policy that addresses procedures for proper fertilizer application on municipally-owned lands and the planting of native material to lessen the frequency of mowing and reduce the use of chemicals to control vegetation.

## **B. Factual Background**

1. The Town of Brookhaven ("Brookhaven" or "Town") is a municipal corporation chartered under the laws of the State of New York, and as such, Brookhaven is a person, as defined in Section 502(5) of the CWA, 33 U.S.C. § 1362(5), and 40 C.F.R. § 122.2, and is an "incorporated place" as defined in 40 C.F.R. § 122.26(b)(3).
2. Brookhaven owns and operates the MS4, located in the Town of Brookhaven, Suffolk County, New York and is an owner or operator within the meaning of 40 C.F.R. § 122.2.
3. The MS4 in the Town of Brookhaven is a small MS4 located in a urbanized area within the meaning of 40 C.F.R. § 122.26(b)(16)(ii) and 40 C.F.R. § 122.32(a)(1).
4. A MS4 is a point source within the meaning of Section 502(14) of the CWA, 33 U.S.C. § 1362(14).

5. Brookhaven's MS4 discharges stormwater, a pollutant within the meaning of Section 502(6) of the CWA, 33 U.S.C. § 1362(6), to Long Island Sound to the north, the South Shore Estuary Reserve to the south and tributaries of the Peconic Estuary to the east, waters of the United States within the meaning of 502 of the CWA, 33 U.S.C. § 1362, and 40 C.F.R. § 122.2, and as such, discharges pollutants within the meaning of Section 502(12) of the CWA, 33 U.S.C. § 1362(12).
6. Brookhaven submitted a Notice of Intent ("NOI") and a Storm Water Management Program ("SWMP") to NYSDEC on February 28, 2003, seeking coverage under the SPDES permit (GP-02-02). The Town received permit coverage under the SPDES General Permit (GP-02-02) and permit coverage was maintained under subsequent SPDES permits (GP-0-08-002) and (GP-0-10-002).
7. EPA, accompanied by NYSDEC, conducted a compliance audit of Brookhaven's MS4 on June 7 - 9, 2011.
8. SPDES General Permit (GP-0-10-002), effective on May 1, 2010, was the effective permit at the time of the audit.

### **C. Findings of Violation**

As described in greater detail in the enclosed Audit Report, at the audit on June 7 - 9, 2011, EPA inspectors observed the following violations of the Brookhaven's Permit:

1. Brookhaven failed to provide adequate assurance that Town-hired contractors and other third parties comply with permit requirements applicable to the work performed by the third party through a signed certification statement, contract or agreement, in violation of Part IV.G of the Permit. Town-hired contractors have not signed the certification statement listed in the MS4 Permit, and the statement is not included in contracts with the Town.
2. Brookhaven failed to fully evaluate its program compliance, appropriateness of its identified BMPs, and progress towards achieving its identified measurable goals, which must include reducing the discharge of pollutants to the MEP, on an annual basis, for the time period from 2003 to 2011, in violation of Part V.A of the Permit:
  - a. Brookhaven failed to assess the effectiveness of its identified BMPs;
  - b. Brookhaven failed to determine if there has been a reduction in the discharge of pollutants; and
  - c. Brookhaven failed to develop a process of evaluating and revising BMPs or the program's effectiveness resulting in an alteration in the SWMP.
3. EPA reviewed Brookhaven's Annual Reports from 2006 through 2010 and identified that Brookhaven failed to submit an annual report by June 1 of the respective reporting year for two of the five years (2008 and 2009), in violation of Part V.C.1 of the Permit. NYSDEC received Brookhaven's 2008 annual report on September 16, 2008 and Brookhaven's 2009 annual report on October 30, 2009.

4. In its Annual Reports, Brookhaven identified changes to its identified measurable goals but failed to include justification for changes to those measurable goals, in violation of Part V.C.3 of the Permit.
5. Brookhaven failed to present draft annual reports, for reporting years 2003 to 2011, in a format that is open to the public, where the public can ask questions about and make comments on the report, prior to submitting the final annual report to the NYSDEC, in violation of Part VII.A.2.d.i of the Permit. Brookhaven posts annual reports on the Town website for public review after they have been finalized by the Town and submitted to the NYSDEC.
6. Brookhaven failed to enforce a program that provides equivalent protection to the NYSDEC Construction General Permit ("CGP"), in violation of Part VII.A.4.a.i of the Permit, beginning June 8, 2011 when EPA identified CGP violations at the Eastport Meadows construction site.
7. Brookhaven failed to describe procedures for construction site inspections as part of the construction site stormwater runoff control program, in violation of Part VII.A.4.a.ix of the Permit.
8. Brookhaven failed to develop, implement, and enforce a program that ensures that construction site operators have received erosion and sediment control training before they do work within the covered entity's jurisdiction and maintain records of that training, in violation of Part VII.A.4.xi of the Permit. Brookhaven does not document construction site operator training and construction site approval procedures do not include ensuring adequate training.
9. Brookhaven failed to fully develop and implement a pollution prevention/good housekeeping program for municipal operations and facilities that contribute or potentially contribute POCs to the small MS4 system, in violation of Part VII.A.6.a.i of the Permit, at the following areas/operations at municipal facilities:
  - a. Material stock piles at the Parks Garage at Coram-Ward #1 located uphill from dry wells;
  - b. The dry well downhill from the North Ocean Avenue Garage, where vehicle maintenance occurs; and
  - c. The dry well in front of Parks Garage at Cedar Beach-Ward #2, where vehicle washing occurs.
10. Brookhaven failed to perform a self assessment of all municipal operations addressed by the SWMP, at a minimum frequency of once every three years, for the time period from 2003 to 2011, in violation of Part VII.A.6.a.ii of the Permit. Brookhaven has not performed a self assessment at Town facilities including but not limited to, all Parks Department and Vehicle Control facilities.
11. Brookhaven failed to develop and implement an employee pollution prevention and good housekeeping training program and failed to ensure that staff receive and utilize training, in violation of Part VII.A.6.a.vi of the Permit. Town employee and contractor training is not regularly scheduled, documented, and is not included in the SWMP.
12. Brookhaven failed to adopt techniques to reduce the use of fertilizers, pesticides, and herbicides, as

well as potential impact to surface waters, in violation of Part VII.A.6.e of the Permit. The Town has not developed procedures for applying and reducing the use of fertilizers, pesticides and herbicides.

13. Brookhaven failed to develop or acquire specific educational material dealing with sources of pathogens in stormwater and pollutant reduction practices by March, 1, 2011, specifically septic systems, in violation of Part IX.C.1.b of the Permit.
14. Brookhaven failed to develop or acquire specific educational material dealing with sources of nitrogen in stormwater and pollutant reduction practices by March, 1, 2011, specifically septic systems, in violation of Part IX.D.1.b of the Permit.
15. Brookhaven failed to develop a turf management practices and procedures policy that addresses proper fertilizer application on municipally-owned lands and the planting of native material, in violation of Part IX.D.6.a of the Permit. The Town has not developed any written policies or procedures for the application of fertilizers.

#### **D. Ordered Provisions**

Based on the Findings of Violation set forth above, and pursuant to Sections 308(a) and 309(a)(3) of the CWA, 33 U.S.C. §§ 1318(a) and 1319(a)(3), Brookhaven is hereby ORDERED to take the following actions:

1. Immediately upon receipt of the original copies of this Order, a responsible official of the Town of Brookhaven shall complete and sign the acknowledgment of receipt of one of the originals of the Order and return said original to Chief, Water Compliance Branch, Division of Enforcement and Compliance Assistance, in the enclosed envelope, to the address listed below.
2. Brookhaven shall complete the following items in accordance with the schedule listed below:

<u>Item</u>	<u>Completion</u>
i. Implement appropriate pollution prevention measures at the following areas/operations at municipal facilities, as required by Part VII.A.6.a.i of the Permit: <ol style="list-style-type: none"> <li>a. Material stock piles at the Parks Garage at Coram-Ward #1 located uphill from dry wells;</li> <li>b. The dry well downhill from the North Ocean Avenue Garage, where vehicle maintenance occurs; and</li> <li>c. The dry well in front of Parks Garage at Cedar Beach-Ward #2, where vehicle washing occurs.</li> </ol>	Within thirty (30) days of the effective date of this Order, implement immediately and submit to EPA and NYSDEC a written report summarizing measures.
ii. Submit to EPA and NYSDEC a written explanation for the overdue 2008 and 2009 annual reports.	Within thirty (30) days of the effective date of

	this Order
iii. Submit a written explanation to EPA and NYSDEC for changes made to measurable goals from 2006 to present.	Within thirty (30) days of the effective date of this Order
iv. Ensure that corrective actions are taken to address CGP violations at the Eastport Meadows construction site and that, if necessary, enforcement escalation procedures are followed, as required by Part VII.A.4.a.i or the Permit. Submit to EPA and NYSDEC a written statement that the CGP violations at the Eastport Meadows construction site have been corrected or that enforcement action has been taken by the Town.	Within thirty (30) days of the effective date of this Order
v. Develop, implement, and submit to EPA and NYSDEC an employee pollution prevention and good housekeeping training program that ensures employee and contractor training is regularly scheduled, documented, and is included in the SWMP Plan, as required by Part VII.A.6.a.vi of the Permit.	October 31, 2011
vi. Develop, implement and submit to EPA and NYSDEC a spill response procedure.	October 31, 2011
vii. Develop, implement and submit to EPA and NYSDEC written procedures for construction site inspections, as required by Part VII.A.4.a.ix of the Permit.	December 31, 2011
viii. Develop, implement and submit to EPA and NYSDEC a written procedure that ensures that construction site operators have received adequate erosion and sediment control training, as required by Part VII.A.4.xi of the Permit.	December 31, 2011
ix. Develop, implement and submit to EPA and NYSDEC a procedure that allows for public comments to be incorporated into a draft annual report prior to submission to the NYSDEC, as required by Part VII.A.2.d.i of the Permit.	December 31, 2011
x. Develop, implement and submit to EPA a turf management practice and procedures policy that addresses procedures for proper fertilizer application on municipally-owned lands and the planting of native material as required by Part IX.D.6.a of the	December 31, 2011

Permit.	
xi. Develop, implement and submit to EPA and NYSDEC procedures that document application, storage and usage of fertilizers, pesticides and herbicides, including techniques to reduce the use of fertilizers, pesticides and herbicides, as well as potential impact to surface water, as required by Part VII.A.6.e of the Permit.	December 31, 2011
xii. Submit a written response to EPA and NYSDEC regarding each of the listed areas of concern and recommendations in the enclosed Audit Report.	December 31, 2011
xiii. Submit quarterly progress reports to EPA and NYSDEC outlining all activities undertaken and costs associated with compliance with this Order.	Quarterly, starting December 31, 2011
xiv. Submit to EPA and NYSDEC copies of the certification statement, as listed in Part IV.G of the Permit, signed by all Town hired contractors or third party entities that are relied upon to develop or implement a portion of the SWMP Plan.	December 31, 2011
xv. Develop, implement and submit a process of conducting an annual evaluation of program compliance, the appropriateness of identified BMPs, and progress towards achieving its identified measurable goals and where the evaluation shows that the SWMP is not reducing discharges to the MEP, a process for revising the SWMP Plan.	December 31, 2011
xvi. Develop, implement and submit to EPA and NYSDEC an educational program that distributes designed or acquired educational material that addresses septic systems as a source of pathogens and nitrogen, as required by Part IX.C.1.b and Part IX.D.6.a of the Permit.	March, 1, 2012
xvii. Perform a self assessment of all municipal operations addressed by SWMP to determine sources of pollutants and identify the municipal operations and facilities and submit a copy of the audit report to EPA and NYSDEC.	April 1, 2012
xviii. Submit to EPA and NYSDEC an updated SWMP Plan including but not limited to the following:	April 1, 2012

<ul style="list-style-type: none"> <li>a. All municipal operations and facilities that contribute or potentially contribute POCs to the MS4;</li> <li>b. All current measurable goals;</li> <li>c. An organizational chart that specifies which departments will be implementing each of the MCMs;</li> <li>d. Any written procedures developed by the Town and additional procedures such as a spill response procedure and fertilizer/pesticide application procedures;</li> <li>e. Checklists that the Town utilizes, such as SWPPP review and inspection checklists;</li> <li>f. Town employee training requirements;</li> <li>g. Details about the Stop Throwing Out Pollutants ("STOP") program;</li> <li>h. A list of stormwater committee members, and a description of typical meeting frequency and discussion topics;</li> <li>i. A complete list of pollutants of concern, including those applicable to TMDL watersheds within the Town of Brookhaven; and</li> <li>j. Turf management practices and procedures policy.</li> </ul>	
<p>xix. Submit annual reports so that they are received by NYSDEC by June 1 of each reporting year, as required by Part V.C.1 of the Permit.</p>	<p>Annually, starting June 1, 2012</p>

3. Any document submitted by Brookhaven as part of this Order shall be sent by certified mail or its equivalent and shall be signed by an authorized representative of the respective entity (see 40 CFR § 122.22), and shall include the following certification:

"I certify under the penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons gathering the information, I certify that the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of a fine and imprisonment for knowing violations."

4. All information required to be submitted by this Order shall be sent in accordance with the paragraph above to the following addresses:

Douglas McKenna, Chief  
Water Compliance Branch  
Division of Enforcement and Compliance Assistance  
USEPA Region 2  
290 Broadway, 20th Floor  
New York, NY 10007-1866

Regional Water Engineer  
NYSDEC, Region 1  
Division of Water  
50 Circle Road  
Stony Brook, NY 11790-3409

#### **E. General Provisions**

1. This Order does not constitute a waiver from compliance with or a modification of the effective terms and conditions of the Act, its implementing regulations, and the MS4 General Permit, which remain in full force and effect. This Order is an enforcement action taken by EPA to ensure swift compliance with the Act. Issuance of an Administrative Order shall not be deemed an election by EPA to forgo any civil or criminal actions that would seek penalties, fines or other appropriate relief under the Act.
2. Notice is hereby given that violation of, or failure to comply with, any of the provisions of the foregoing Order may subject Brookhaven to (1) civil penalties up to \$37,500 per day for each violation, pursuant to Section 309(d) of the Act, 33 U.S.C. § 1319(d); or (2) civil action in federal court for injunctive relief, pursuant to Section 309(b) of the Act, 33 U.S.C. § 1319(b).
3. The terms of this Order shall be effective and enforceable against Brookhaven upon the date of execution by the Director, Division of Enforcement and Compliance Assistance.

Dated: SEPTEMBER 16, 2011

Signed: \_\_\_\_\_

Dore LaPosta, Director  
Division of Enforcement and Compliance Assistance

UNITED STATES  
ENVIRONMENTAL PROTECTION AGENCY  
REGION 2

**IN THE MATTER OF:**

Town of Brookhaven  
1 Independence Hill  
Farmingville, NY 11738

**SPDES Permit No. NYR20A411**

Proceeding pursuant to Sections 308(a) and  
309(a)(3) of the Clean Water Act, 33 U.S.C. §§  
1318(a) and 1319(a)(3)

**ADMINISTRATIVE**  
**COMPLIANCE ORDER**

**CWA-02-2011-3054**

**ACKNOWLEDGMENT OF RECEIPT OF  
ADMINISTRATIVE COMPLIANCE ORDER**

I, \_\_\_\_\_, an official of the Town of Brookhaven with the title

of, \_\_\_\_\_, do hereby acknowledge the receipt of copy of the

ADMINISTRATIVE ORDER, Town of Brookhaven CWA-02-2011-3054.

DATE: \_\_\_\_\_

SIGNED: \_\_\_\_\_



United States Environmental Protection Agency  
Washington, D.C. 20460

## Water Compliance Inspection Report

### Section A: National Data System Coding (i.e., PCS)

Transaction Code	NPDES	yr/mo/day	Inspection Type	Inspector	Fac Type
1 <input type="checkbox"/> 2 <input type="checkbox"/> 3 <input type="checkbox"/> 4 <input type="checkbox"/> 5 <input type="checkbox"/> 6 <input type="checkbox"/> 7 <input type="checkbox"/> 8 <input type="checkbox"/> 9 <input type="checkbox"/> 10 <input type="checkbox"/> 11 <input type="checkbox"/> 12 <input type="checkbox"/> 13 <input type="checkbox"/> 14 <input type="checkbox"/> 15 <input type="checkbox"/> 16 <input type="checkbox"/> 17 <input type="checkbox"/> 18 <input type="checkbox"/> 19 <input type="checkbox"/> 20 <input type="checkbox"/> 21 <input type="checkbox"/> 22 <input type="checkbox"/> 23 <input type="checkbox"/> 24 <input type="checkbox"/> 25 <input type="checkbox"/> 26 <input type="checkbox"/> 27 <input type="checkbox"/> 28 <input type="checkbox"/> 29 <input type="checkbox"/> 30 <input type="checkbox"/> 31 <input type="checkbox"/> 32 <input type="checkbox"/> 33 <input type="checkbox"/> 34 <input type="checkbox"/> 35 <input type="checkbox"/> 36 <input type="checkbox"/> 37 <input type="checkbox"/> 38 <input type="checkbox"/> 39 <input type="checkbox"/> 40 <input type="checkbox"/> 41 <input type="checkbox"/> 42 <input type="checkbox"/> 43 <input type="checkbox"/> 44 <input type="checkbox"/> 45 <input type="checkbox"/> 46 <input type="checkbox"/> 47 <input type="checkbox"/> 48 <input type="checkbox"/> 49 <input type="checkbox"/> 50 <input type="checkbox"/> 51 <input type="checkbox"/> 52 <input type="checkbox"/> 53 <input type="checkbox"/> 54 <input type="checkbox"/> 55 <input type="checkbox"/> 56 <input type="checkbox"/> 57 <input type="checkbox"/> 58 <input type="checkbox"/> 59 <input type="checkbox"/> 60 <input type="checkbox"/> 61 <input type="checkbox"/> 62 <input type="checkbox"/> 63 <input type="checkbox"/> 64 <input type="checkbox"/> 65 <input type="checkbox"/> 66 <input type="checkbox"/> 67 <input type="checkbox"/> 68 <input type="checkbox"/> 69 <input type="checkbox"/> 70 <input type="checkbox"/> 71 <input type="checkbox"/> 72 <input type="checkbox"/> 73 <input type="checkbox"/> 74 <input type="checkbox"/> 75 <input type="checkbox"/> 76 <input type="checkbox"/> 77 <input type="checkbox"/> 78 <input type="checkbox"/> 79 <input type="checkbox"/> 80 <input type="checkbox"/>					

### Section B: Facility Data

Name and Location of Facility Inspected (For industrial users discharging to POTW, also include POTW name and NPDES permit number)	Entry Time/Date	Permit Effective Date
Town of Brookhaven 1 Independence Hill Farmingville, NY 11738	10:00 AM/ 06/07/2011	05/01/2010
Name(s) of On-Site Representative(s)/Title(s)/Phone and Fax Number(s)	Exit Time/Date	Permit Expiration Date
Veronica King, Town Stormwater Manager 1 Independence Hill, Farmingville, NY 11738 Phone: 631-451-8696	11:30 AM/ 06/09/2011	04/30/2015
Name, Address of Responsible Official/Title/Phone and Fax Number	Other Facility Data (e.g., SIC NAICS, and other descriptive information)	
Supervisor Mark Lesko 1 Independence Hill, Farmingville Phone: 631-451-8696		

### Section C: Areas Evaluated During Inspection (Check only those areas evaluated)

<input checked="" type="checkbox"/> Permit	<input type="checkbox"/> Self-Monitoring Program	<input type="checkbox"/> Pretreatment
<input checked="" type="checkbox"/> Records/Reports	<input type="checkbox"/> Compliance Schedules	<input checked="" type="checkbox"/> MS4
<input checked="" type="checkbox"/> Facility Site Review	<input type="checkbox"/> Laboratory	<input type="checkbox"/> Pollution Prevention
<input type="checkbox"/> Effluent/Receiving Waters	<input checked="" type="checkbox"/> Operations & Maintenance	<input type="checkbox"/> Storm Water
<input type="checkbox"/> Flow Measurement	<input type="checkbox"/> Sludge Handling/Disposal	<input type="checkbox"/> Combined Sewer Overflow
		<input type="checkbox"/> Sanitary Sewer Overflow

### Section D: Summary of Findings/Comments

(Attach additional sheets of narrative and checklists, including Single Event Violation codes, as necessary)

SEV Codes	SEV Description
<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>	
<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>	
<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>	
<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>	

Name(s) and Signature(s) of Inspector(s)	Agency/Office/Phone and Fax Numbers	Date
Kimberly McEathron <i>Kimberly McEathron</i>	EPA/DECA 212-637-4228	8/25/11
Signature of Management Q A Reviewer	Agency/Office/Phone and Fax Numbers	Date
<i>Virginia A. King</i>	EPA/DECA-WCB 212-637-4241	8/31/2011

# INSTRUCTIONS

## Section A: National Data System Coding (i.e., PCS)

**Column 1: Transaction Code:** Use N, C, or D for New, Change, or Delete. All inspections will be new unless there is an error in the data entered.

**Columns 3-11: NPDES Permit No.** Enter the facility's NPDES permit number - third character in permit number indicates permit type for U=unpermitted, G=general permit, etc.. (Use the Remarks columns to record the State permit number, if necessary.)

**Columns 12-17: Inspection Date.** Insert the date entry was made into the facility. Use the year/month/day format (e.g., 04/10/01 = October 01, 2004).

**Column 18: Inspection Type\*.** Use one of the codes listed below to describe the type of inspection:

A Performance Audit	U IU Inspection with Pretreatment Audit	I Pretreatment Compliance (Oversight)
B Compliance Biomonitoring	X Toxics Inspection	@ Follow-up (enforcement)
C Compliance Evaluation (non-sampling)	Z Sludge - Biosolids	{ Storm Water-Construction-Sampling
D Diagnostic	# Combined Sewer Overflow-Sampling	} Storm Water-Construction-Non-Sampling
F Pretreatment (Follow-up)	\$ Combined Sewer Overflow-Non-Sampling	: Storm Water-Non-Construction-Sampling
G Pretreatment (Audit)	+ Sanitary Sewer Overflow-Sampling	~ Storm Water-Non-Construction-Non-Sampling
I Industrial User (IU) Inspection	& Sanitary Sewer Overflow-Non-Sampling	< Storm Water-MS4-Sampling
J Complaints	\ CAFO-Sampling	- Storm Water-MS4-Non-Sampling
M Multimedia	= CAFO-Non-Sampling	> Storm Water-MS4-Audit
N Spill	2 IU Sampling Inspection	
O Compliance Evaluation (Oversight)	3 IU Non-Sampling Inspection	
P Pretreatment Compliance Inspection	4 IU Toxics Inspection	
R Reconnaissance	5 IU Sampling Inspection with Pretreatment	
S Compliance Sampling	6 IU Non-Sampling Inspection with Pretreatment	
	7 IU Toxics with Pretreatment	

**Column 19: Inspector Code.** Use one of the codes listed below to describe the lead agency in the inspection.

A — State (Contractor)	O — Other Inspectors, Federal/EPA (Specify in Remarks columns)
B — EPA (Contractor)	— Other Inspectors, State (Specify in Remarks columns)
E — Corps of Engineers	— EPA Regional Inspector
J — Joint EPA/State Inspectors—EPA Lead	— State Inspector
L — Local Health Department (State)	— Joint State/EPA Inspectors—State lead
N — NEIC Inspectors	

**Column 20: Facility Type.** Use one of the codes below to describe the facility.

- 1 — Municipal. Publicly Owned Treatment Works (POTWs) with 1987 Standard Industrial Code (SIC) 4952.
- 2 — Industrial. Other than municipal, agricultural, and Federal facilities.
- 3 — Agricultural. Facilities classified with 1987 SIC 0111 to 0971.
- 4 — Federal. Facilities identified as Federal by the EPA Regional Office.
- 5 — Oil & Gas. Facilities classified with 1987 SIC 1311 to 1389.

**Columns 21-66: Remarks.** These columns are reserved for remarks at the discretion of the Region.

**Columns 67-69: Inspection Work Days.** Estimate the total work effort (to the nearest 0.1 work day), up to 99.9 days, that were used to complete the inspection and submit a QA reviewed report of findings. This estimate includes the accumulative effort of all participating inspectors; any effort for laboratory analyses, testing, and remote sensing; and the billed payroll time for travel and pre and post inspection preparation. This estimate does not require detailed documentation.

**Column 70: Facility Evaluation Rating.** Use information gathered during the inspection (regardless of inspection type) to evaluate the quality of the facility self-monitoring program. Grade the program using a scale of 1 to 5 with a score of 5 being used for very reliable self-monitoring programs, 3 being satisfactory, and 1 being used for very unreliable programs.

**Column 71: Biomonitoring Information.** Enter D for static testing. Enter F for flow through testing. Enter N for no biomonitoring.

**Column 72: Quality Assurance Data Inspection.** Enter Q if the inspection was conducted as followup on quality assurance sample results. Enter N otherwise.

**Columns 73-80:** These columns are reserved for regionally defined information.

## Section B: Facility Data

This section is self-explanatory except for "Other Facility Data," which may include new information not in the permit or PCS (e.g., new outfalls, names of receiving waters, new ownership, other updates to the record, SIC/NAICS Codes, Latitude/Longitude).

## Section C: Areas Evaluated During Inspection

Check only those areas evaluated by marking the appropriate box. Use Section D and additional sheets as necessary. Support the findings, as necessary, in a brief narrative report. Use the headings given on the report form (e.g., Permit, Records/Reports) when discussing the areas evaluated during the inspection.

## Section D: Summary of Findings/Comments

Briefly summarize the inspection findings. This summary should abstract the pertinent inspection findings, not replace the narrative report. Reference a list of attachments, such as completed checklists taken from the NPDES Compliance Inspection Manuals and pretreatment guidance documents, including effluent data when sampling has been done. Use extra sheets as necessary.

\*Footnote: In addition to the inspection types listed above under column 18, a state may continue to use the following wet weather and CAFO inspection types until the state is brought into ICIS-NPDES: K: CAFO, V: SSO, Y: CSO, W: Storm Water 9: MS4. States may also use the new wet weather, CAFO and MS4 inspections types shown in column 18 of this form. The EPA regions are required to use the new wet weather, CAFO, and MS4 inspection types for inspections with an inspection date (DTIN) on or after July 1, 2005.

**Municipal Separate Storm Sewer System (MS4) Audit  
Town of Brookhaven (NYR20A411)  
June 7-9, 2011**

**Prepared by:**

**United States Environmental Protection Agency Region 2  
290 Broadway  
New York, New York 10007**

**Town of Brookhaven MS4 (NYR20A411)**  
**June 7-9, 2011**

**TABLE OF CONTENTS**

1. INTRODUCTION .....	3
2. HISTORY & BACKGROUND .....	3
3. PROGRAM EVALUATION RESULTS .....	4
A. Evaluation of Program Management and Effectiveness; Agreements with Other Municipalities .....	4
B. Public Education and Outreach / Public Involvement and Participation .....	7
C. Construction Site Stormwater Runoff Control .....	10
D. Pollution Prevention / Good Housekeeping for Municipal Operations .....	18
E. Additional Requirements (Pathogen and Nitrogen Impaired Watersheds) .....	26
F. Annual Report Review.....	28
ATTACHMENTS .....	31

## **Town of Brookhaven MS4 (NYR20A411)**

**June 7-9, 2011**

### **1. INTRODUCTION**

On June 7 through June 9, 2011, the United States Environmental Protection Agency (EPA), Region 2, conducted a program evaluation, or audit, of the Town of Brookhaven (Town) Municipal Separate Sewer System (MS4). EPA is granted the authority to conduct the audit through 40 CFR 122.41(i). Ms. Kimberly McEathron of EPA Region 2 conducted the audit. Ms. Katherine Mann, also from EPA Region 2, was present for the audit. EPA staff was accompanied by Ms. Sara Dorman from New York State Department of Environmental Conservation (NYSDEC) Region 1 and Ms. Eileen Keenan from Sea Grant – New York. For the detailed audit agenda see Attachment A.

The following individuals represented the Town of Brookhaven: Ms. Veronica King, Town Stormwater Manager; Mr. Joe Arma, Town IT/GIS; Mr. Gregg Kelsey, Assistant Town Engineer; Ms. Germaine Ortiz, Engineering; Mr. Jeff Kassner, Director of Division of Environmental Protection; Mr. Louis Tsunis, Department of Parks and Recreation; Ms. Michelle DiBrita, Department of Waste Management; Mr. Jim LaCarrubba, Highway Department Deputy Superintendent; Ms. Rosann McCarrick, Department of Waste Management; Mr. Mark Liegey, Cameron Engineering and Associates, LLP; Mr. Steve Fiore-Rosenfeld, Town Councilman—District 1; Mr. Ed Ryan, Cameron Engineering and Associates, LLP; Mr. Carl Cantone, Department of Parks and Recreation; and Mr. Bob Borruso, Town Engineering.

The purpose of the audit was to determine the Town's compliance with the terms of its State Pollutant Discharge Elimination System (SPDES) MS4 Permit and to evaluate the current implementation status of the Town's stormwater management program. Prior to conducting the audit, EPA Region 2 reviewed program materials received from the Town and NYSDEC (see Attachment B). During the audit, the Town provided EPA Region 2 with copies of additional program materials (see Attachment C). For this audit, the Region only evaluated certain Minimum Control measures (MCMs), specifically, Public Education and Outreach, Public Involvement and Participation, Construction Site Stormwater Runoff Control, and Pollution Prevention and Good Housekeeping for Municipal Operations. EPA Region 2's audit included in-field verification of program implementation.

The Town's Illicit Discharge Detection and Elimination program and the Highway Department garages and yards were evaluated separately by EPA, during a Compliance Evaluation Inspection conducted April 12 through April 28, 2011. The corresponding inspection report was transmitted to the Town in a letter dated June 23, 2011.

### **2. HISTORY & BACKGROUND**

The State of New York is the delegated permitting and enforcement authority for the National Pollutant Discharge Elimination System (NPDES) or State Pollutant Discharge Elimination System (SPDES) program. NYSDEC is the delegated agency that implements the SPDES program and as such, issued a SPDES General Permit for Storm Water Discharges from Municipal Separate Storm Sewer Systems (GP-0-10-002), which became effective on May 1, 2010 and expires on April 30, 2015 (Permit).

## **Town of Brookhaven MS4 (NYR20A411)**

**June 7-9, 2011**

The Town of Brookhaven submitted a Notice of Intent (NOI), which was received by NYSDEC on February 28, 2003. The Town subsequently received coverage under the SPDES General Permit (GP-02-02) (NYR20A411), which became effective January 8, 2003 and expired on January 8, 2008. Permit coverage remained in full force and effect and was automatically carried over upon the reissuance of SPDES General Permit (GP-08-002), which became effective on May 1, 2008 and expired on April 30, 2010. Upon expiration, permit coverage was automatically carried over to the current permit, SPDES General Permit (GP-0-10-002), which became effective on May 1, 2010 and expires on April 30, 2015.

The Town's original Stormwater Management Program (SWMP) Plan was developed for the Town by Cornell Cooperative Extension in 2003. The most recent version of the SWMP Plan, dated December 2010, is available on the Town's website. In accordance with the 2003 permit, the Town was required to have fully implemented its SWMP by January 8, 2008.

### **3. PROGRAM EVALUATION RESULTS**

#### **A. Evaluation of Program Management and Effectiveness; Agreements with Other Municipalities**

##### **1. Findings:**

According to the SWMP Plan, the Town of Brookhaven is approximately 262.5 square miles and has approximately 472,425 residents. Based on interviews with Town at the time of the audit, there are approximately 1,780 miles of road within the Town. The Town is centrally located in Suffolk County on Long Island and is bordered by the Long Island Sound to the north, the South Shore Estuary Reserve to the south and tributaries of the Peconic Estuary to the east. The Town of Brookhaven's stormwater collection system is a combination of storm sewers, catch basins, recharge basins, leaching pools, and infiltration basins.

Ms. Veronica King, who has been the Town Stormwater Manager for approximately 1.5 years, is responsible for coordinating the SWMP. According to the organizational chart provided by the Town and discussions during the audit, the stormwater program is managed out of the Division of Environmental Protection; however implementing the stormwater program is a coordinated effort between the Department of Planning, Environment, and Land Management (including the Division of Environmental Protection and the Division of Engineering), the Highway Department, the Department of Waste Management and the Department of Parks and Recreation (see Attachment D). All departments responsible for implementing the stormwater program are also part of the Town's Stormwater Committee. Stormwater Committee meetings are held on a regular basis, approximately four to six times a year; however, Ms. King indicated that if important stormwater issues arise, the committee would meet more frequently. A summary and attendance sheet is recorded and distributed to all involved parties. Stormwater Committee meeting documentation is stored in the office for the Division of Environmental Protection. According to Ms. King's documentation, recent Stormwater Committee meetings were held on November 18, 2009, December 16, 2009, February 17, 2010, April 21, 2010, August 18, 2010, October 20, 2010 and February 17, 2011.

**Town of Brookhaven MS4 (NYR20A411)**

**June 7-9, 2011**

The audit revealed that key Town staff in the Division of Environmental Planning, Environment, and Land Management, the Department of Waste Management, and the Department of Parks and Recreation demonstrate keen understanding of how the Town's stormwater program is being implemented Town-wide. EPA observed that the staff from these different departments responsible for implementing the program work closely together and communicate on a regular basis.

The Town has targeted specific watersheds and waterbodies within its jurisdiction for the development and implementation of watershed-specific management plans. According to Mr. Jeff Kassner, Director of Division of Environmental Protection, these watersheds were selected specifically because of grassroots campaigns, sensitive shellfish beds, anoxic conditions and other water quality concerns located within the watershed. Each management plan assesses the conditions of the watershed and recommends various ways to reduce pollutants discharged to these waterbodies, and in addition serves as a planning tool for the Town. The Town then reviews the recommendations, applies for grants and implements the projects. During the audit, the Town and EPA discussed the following watershed-specific management plans, and the current status of recommended improvements, listed below:

- a) As a result of the West Meadow Creek Management Plan, dated March 2001, which recommended additional stormwater storage, the Town has implemented practices including leaching pools and several small road end projects.
- b) As a result of the Mt. Sinai Harbor Stormwater Improvement Project, dated February 2003, and Management Plan, dated December 2007, the Town has received grant funding and is waiting for authorization prior to implementing recommended projects.
- c) As a result of the Swan River Management Plan, dated March 2007, approximately seventy (70) leaching pools have been installed on West Swan Lake to intercept stormwater and deposit sediment prior to discharging through four (4) outfalls.
- d) As a result of the Conscience Bay and Setauket Harbor Stormwater Management Plan, dated March 2009, the Town has recently received county funding and is in the process of implementing recommendations.

Additional plans include the Carmens River Watershed Management Plan, which is expected to be complete in the late summer 2011; the Forge River Watershed Management Plan, which is expected to be complete by the end of 2011; and the Tuthills Creek Watershed Management Plan, which has not yet begun.

The Town has identified nitrogen, pathogens and sediment as the primary pollutants of concern within the MS4. Ms. King stated that retrofit projects are a strategy that the town uses to address reducing identified pollutants of concern, primarily sediment. Ms. King identified Total Maximum Daily Load (TMDL) waterbodies as waterbodies of concern within the Town and TMDL watersheds as geographic areas of concern. Pollutants identified on NYSDEC list for the applicable TMDL watersheds include pathogens, nitrogen, dissolved oxygen, oxygen demand, phosphorus, silt/sediment, and urban/stormwater runoff, some of which are not currently included in the Town's SWMP as pollutants of concern. According to Ms. King, target audiences for reducing sediment pollution include contractors and the construction industry. As a Best

## **Town of Brookhaven MS4 (NYR20A411)**

**June 7-9, 2011**

Management Practice (BMP) developed by the Town specifically to address pollutants in the TMDL watersheds, construction sites within a TMDL watershed do not qualify for a Stormwater Pollution Prevention Plan (SWPPP) conditional release (further discussed in Part C of this report). Target audiences for reducing pathogens and nitrogen pollution include homeowners and businesses.

Permitted MS4s within, and separate from, the Town of Brookhaven include Suffolk County, NYS Department of Transportation (NYSDOT) (including the Expressway and Sunrise Highway), Bellport, Lake Grove, Old Field, Patchogue, Poquott, Port Jefferson and Shoreham. The Town does not have formal intermunicipal agreements with these MS4s or the two (2) incorporated villages within the Town without permitted MS4s (Mastic Beach and Belle Terre). Ms. King stated that there are interconnections between the Town, Suffolk County and NYSDOT MS4s, which are listed with the outfall mapping system data.

Ms. King attended EPA's Municipal Compliance Conference on March 22<sup>nd</sup> and 23<sup>rd</sup>, 2010. Ms. King, Mr. Gregg Kelsey, Assistant Town Engineer, and Ms. Germaine Ortiz, Engineering Department, attended the NYS Stormwater Design Manual Training held on March 1, 2011. On January 25, 2010, nine (9) Waste Management employees were trained regarding household hazardous waste. The Town does not have a formal or regular MS4 training program for new or existing employees. New employees are trained by an immediate supervisor and by mirroring another employee.

The Town relies on contractors to implement portions of the good housekeeping and construction MCMs. Ms. King stated that all contracts include language that specifically states that contractors are required to adhere to the Town Standards, including the MS4 Permit.

Ms. King stated that the SWMP Plan is reviewed annually over the summer months after annual reports are completed and is updated as needed. There are no written procedures, schedules or checklists in the 2010 SWMP Plan. None were provided to EPA prior to the audit; however, during the audit, the Town provided EPA with written procedures for the construction site stormwater runoff control, and pollution prevention / good housekeeping for municipal operations programs (see Attachments E - J). Such written procedures should be incorporated into the Town's SWMP Plan during its annual summer review.

## **2. Areas of Concern and Recommendations:**

- a) The Town should update the SWMP Plan by including the following items to more accurately reflect the conditions of the program:
  - i. An organizational chart that specifies which departments will be implementing each of the MCMs;
  - ii. Any written procedures developed by the Town, i.e. Attachments E - J, and additional procedures such as a spill control plan and procedures for fertilizer/pesticide application;
  - iii. Checklists that the Town utilizes, such as SWPPP review and inspection checklists;

**Town of Brookhaven MS4 (NYR20A411)**

**June 7-9, 2011**

- iv. Town employee training requirements;
  - v. A complete and accurate equipment inventory;
  - vi. Details about the Stop Throwing Out Pollutants (STOP) program;
  - vii. A list of stormwater committee members, and a description of typical meeting frequency and discussion topics; and
  - viii. A complete list of pollutants of concern, including those applicable to TMDL watersheds within the Town of Brookhaven.
- b) The SWMP Plan currently has some Town facilities referenced within the relative paragraphs throughout the document. The Town should have a consolidated running list of all town facilities including parks, highway yards, garages, marinas and beaches. An accurate equipment inventory should also be kept and clarified in the SWMP Plan.

**3. Potential Violations:**

- a) Part IV.G of the Permit requires that all permittees must, through a signed certification statement, contract or agreement, provide adequate assurance that the third parties will comply with permit requirements applicable to the work performed by the third party. Town-hired contractors have not signed the certification statement listed in the MS4 Permit, and the statement is not included in contracts with the Town.
- b) Part V.A of the Permit states that all permittees must conduct an annual evaluation of its program compliance, the appropriateness of its identified BMPs, and progress towards achieving its identified measurable goals, which must include reducing the discharge of pollutants to the Maximum Extent Practical (MEP). Where the evaluation shows that the SWMP is not reducing discharges to the MEP, the SWMP shall be revised to reduce discharges to the MEP. While the Town is collecting data to reach its identified measurable goals, the Town does not appear to be assessing the effectiveness of its identified BMPs or determining if there has been a reduction in the discharge of pollutants. There is no process to evaluate and revise BMPs or the program's effectiveness resulting in an alteration in the SWMP.

**B. Public Education and Outreach / Public Involvement and Participation**

**1. Findings:**

The Town has an environmental educator, Ms. Eileen Gerle, and an environmental aide on staff to implement the Town education program at Cedar Beach and West Meadow Beach. The West Meadow Beach Environmental Program is a year-round education program sponsored by the Town and led by Ms. Gerle. This program includes participation in the annual international coastal cleanup. Other organizations involved in environmental education programs within the Town include Patchogue High School, Civic Groups and Stony Brook University.

According to Ms. King, the Town website has had a page, last updated in 2009, dedicated to the stormwater program for at least five (5) years. This website posts Annual Reports, the SWMP Plan, the Swan River Management Plan, and education and outreach material regarding clean

**Town of Brookhaven MS4 (NYR20A411)**

**June 7-9, 2011**

ups and disposing of hazardous waste. Other methods that the Town utilizes for public education and outreach include the electronic publication of the Green Gazette, an environmentally-focused newsletter; recycling programs in schools; an effort to clean up neighborhoods called "Operation Clean Sweep; and the establishment of two (2) ecology centers. According to the Town's 2011 Annual Report, the Town's Holtsville Ecology Center had approximately 12,000 participants in the reporting year exposed to stormwater-specific education programs. The Green Gazette, which is a newsletter produced by the Department of Waste Management that highlights information regarding recycling, litter, and pet waste, was traditionally mailed out to all residences in Brookhaven, but now will be exclusively available on the Town's website. The Town Parks Department also produces a Brookhaven Recreation Guide for residents that details each Town Park and recreation facility, lists events, and advertises the Adopt-A-Park program and the Town Hotline. The Town call center Hotline, "451-TOWN," which is also advertised on the Town website, can be used by residents to call the Town regarding general complaints or questions. The call center logs each call, creates a work order and forwards the call to the related Town Department. Ms. King stated that when a residential complaint is received in her office, the department investigates and responds. Complaints regarding flooding go directly to the Highway Department.

The Great Brookhaven Clean-Up is a program coordinated by the Department of Waste Management and is conducted annually in the spring. According to Ms. Michelle DiBrita, Department of Waste Management, the well-publicized event entails a lot of work, whereby residents, schools, and Boy and Girl Scout troops sign up online or over the phone to clean up a specific area of the Town. The event is advertised on the radio, in the newspaper, and on the Town website. Ms. DiBrita stated that this program has been running for four years, and the Town documented a steady increase in participation from 4,000 in 2010 to 5,000 in 2011. Material removed is separated into recyclables and waste and is weighed at the transfer station for documentation and tracking. Locations for clean up are targeted by the volunteers.

The Great Brookhaven Plant-In is another public outreach program conducted each spring and is coordinated by the Highway Department. Using the same methods of outreach and recruitment as the Great Brookhaven Clean-Up, Ms. DiBrita stated that this year, approximately 1,000 volunteers participated in the event and planted approximately 800 flats of flowers grown for the Town by the ecology center and received via donation from two local greeneries. Planting locations are targeted by volunteer groups.

Ms. DiBrita stated that the Town also has an Adopt-A-Highway program, where a resident can adopt a portion of a road and clean that portion four to six times per year; in return, the resident's name is posted on a sign.

Additional outreach material developed by the Town includes a handout entitled, "Town of Brookhaven Pollution Prevention Requirements for Construction Projects," which was developed by the Department of Planning, Environment and Land Management in 2010 and is provided to contractors when they come to the Town Hall to apply for a construction job. The material is also available on the Town website. Ms. King explained that construction contractors within the Town were identified as a weak point during review of the annual report; therefore, the Town developed outreach material to educate contractors.

## **Town of Brookhaven MS4 (NYR20A411)**

**June 7-9, 2011**

Town inlet structures do not currently contain markings that inform the public that they drain to surface waters. Ms. King stated that this is a project that the Town would like to implement in the foreseeable future.

### Measurable Goals

The Public Education and Outreach program measurable goals listed in the SWMP Plan include:

- Educate as many people as possible through educational brochures or articles;
- Educate as many people as possible through talks/activities with civic and school groups; and
- Update and enhance the Town's stormwater management website.

The Public Education and Outreach program measurable goals listed in the 2011 Annual Report include:

- Educate as many homeowners as possible through educational brochures, literature and articles;
- Educate as many citizens as possible through outreach and education programs; and
- Provide educational signs that inform residents on how to limit / modify behaviors which may result in pollutant-generating activities.

The Public Involvement and Participation program measurable goals listed in the SWMP Plan include:

- Recruit as many citizen volunteers as possible to assist with clean up events; and
- Recruit citizen volunteers to assist with green initiatives such as a large scale plant-in.

The Public Involvement and Participation program measurable goals listed in the 2011 Annual Report include:

- Recruit citizen volunteers to assist with litter clean up events;
- Host community drop off locations for household hazardous waste, recyclable materials, electronic waste and compost; and
- Provide an opportunity for the public to participate in the development of watershed management plans by participating in citizen advisory committees.

## **2. Areas of Concern and Recommendations:**

- a) The Town Parks Department's Brookhaven Recreation Guide is a helpful guide for residents and is a tool that the Town may consider utilizing to include stormwater information and details of park ordinances, including the prohibition of dogs and feeding waterfowl on Town properties.
- b) The Town should consider utilizing or developing educational and outreach material (signage, brochures etc.) to target boat owners and other Town marina users to prevent pollutant discharging activities such as boat maintenance, boat washing, fueling and other

## **Town of Brookhaven MS4 (NYR20A411)**

**June 7-9, 2011**

activities. Measurable goals should be established to reach these identified target audiences.

- c) It is suggested that all new catch basins be labeled with public warnings alerting the public that they drain directly to surface waters.
- d) As a way to better quantify the extent that outreach materials are truly reaching the public and that measurable goals are being met, the Town of Brookhaven should track hits to its stormwater website.

### **C. Construction Site Stormwater Runoff Control**

#### **1. Findings:**

The Town ordinance for Stormwater Management and Erosion Control, Chapter 86, was adopted January 22, 2008 and became effective January 30, 2008. The Town is in the process of revising this ordinance to include SWPPP conditional release requirements.

#### SWPPP Conditional Release

Ms. King clarified that the Town originally called the process a “SWPPP Waiver” but changed the name to a “SWPPP conditional release” to more accurately reflect its purpose, which is to determine that a given site is not subject to the requirement of the State to obtain a permit for stormwater discharges from a construction site greater than one acre. Ms. King and Mr. Kelsey stated that the SWPPP conditional release determines if the construction site has a potential to discharge stormwater from the site into a water of the United States.

Mr. Kelsey evaluates construction sites that apply for SWPPP conditional releases and issues approvals when warranted. Written requests for a conditional release from SWPPP requirements must include a site map or drawings, description of soils present, infiltration tests and contact information. This documentation must provide evidence that runoff from the project site cannot, by any means, discharge to waters of the State as defined by the Town code, or an MS4 system that discharges to waters of the State. As previously stated, construction activities within TMDL or NYS 303(d) listed watersheds do not qualify for a conditional release of SWPPP requirements. During the audit, the Town provided EPA with a written procedure for SWPPP conditional release review requirements as seen in Attachment E. If the Town determines that stormwater runoff from a site has no potential for discharge into waters of the State, then the Assistant Town Engineer issues a SWPPP conditional release letter to the construction site operator. The Town documents and maintains a database for all sites that have been issued a SWPPP conditional release from the Town. At the time of the audit, the Town had issued twenty-nine (29) SWPPP conditional releases.

EPA reviewed SWPPP conditional release assessment packages for two construction projects: the New Access Road to Defense Hill in East Shoreham, a Town construction project that will disturb a total of 1.72 acres; and A & W Realty at Bellport, a private construction project within the Town of Brookhaven that will disturb approximately five (5) acres. Both projects received

## **Town of Brookhaven MS4 (NYR20A411)**

**June 7-9, 2011**

SWPPP Exemption Letters from the Town containing statements confirming that there is no potential for discharge from site development to waters of the United States.

According to the Town, erosion and sediment control plans are required for all projects, including those less than one acre and those that receive a SWPPP conditional release. This requirement is not included in the Town's current stormwater ordinance.

### SWPPP Review

Cameron Engineering and Associates, LLP ("Cameron") has been under contract with the Town to conduct the SWPPP review since the Town ordinance was adopted in 2008. During the audit, Mr. Mark Liegey of Cameron provided EPA with a checklist that Cameron uses for each SWPPP evaluation (see Attachment F). The SWPPP evaluation includes review of a completed NOI; potential sources of pollution; construction phasing; an inspection schedule; pollution prevention measures to control litter, construction chemicals and construction debris; stormwater discharge locations; post construction management practices and other variables. Once a SWPPP has been reviewed, this checklist, in the form of a memo, is sent to Mr. Kelsey with either a Notice of Incomplete Application (NOIA) or with a recommendation that the Town submit an MS4 acceptance form. In the event that Cameron sends an NOIA to the Town, the Town sends a letter to the applicant with required changes. The applicant then sends the Town the revised submissions, which are again reviewed by Cameron. This revision process continues until a SWPPP package is approved. A file for each project, containing all submissions, letters and revisions is maintained by the Town. When a SWPPP is accepted by Cameron and the Town, the Town sends the applicant an MS4 SWPPP acceptance form, as created by NYSDEC, with a letter that is signed by Ms. King. The public can comment on a specific site or SWPPP if it is requested.

As part of the SWPPP review process, the Town requests a copy of the Acknowledgement Letter received by the applicant from the NYSDEC during the preconstruction meeting or at the site during the initial inspection.

The Town of Brookhaven maintains a SWPPP log database that tracks the following information: the date a SWPPP is received by the Town; the date any SWPPP comments are returned to the applicant; the date the SWPPP is approved by Town; whether construction activity at the site has commenced; and when construction activities are completed and a Notice of Termination (NOT) has been received by the Town. At the time of the audit, twenty-eight (28) construction sites were listed in the Town's SWPPP log.

Cameron Engineering and Associates, LLP developed for the Town a "Town of Brookhaven, New York Stormwater Management Program Stormwater Pollution Prevention Plan (SWPPP) Guidance Document" in March 2008. According to Ms. King, this guidance document will be updated with information from the August 2010 NYS Stormwater Management Design Manual and the SWPPP conditional release process. This guidance material is intended to be used as an internal document for town employees as well as contractors.

## **Town of Brookhaven MS4 (NYR20A411)**

**June 7-9, 2011**

Ms. King coordinates with other Town departments, such as the Building Department, to determine if construction sites have the proper approvals and permits. The Town also uses the SWPPP approval and building permit process as a way to require homeowners to minimize the amount of stormwater that leaves their property. Specifically, the Town representatives stated that the Town requires builders to retain at least three (3) inches of rain on-site, and if the site is over 10 acres, builders must retain an eight (8)-inch rain event on-site using dry wells, infiltration basins, and/or retention basins. This requirement is not written into the Town's current stormwater ordinance.

The Town is currently developing a database that can track SWPPP conditional releases, SWPPP approvals, inspections and enforcement in one central location to enable a more comprehensive and effective construction program.

### Conducting Site Inspections

Mr. Kelsey stated that the Town has four (4) general inspectors that conduct inspections at sites that receive SWPPP conditional releases and are required to witness certain activities, such as drainage construction. These procedures are not included in the Town's written conditional release procedures. Ms. King stated that all construction sites are inspected within a given year, but that a program for routine inspections of permanent structures, such as flood management structures, has not been developed yet.

Cameron is contracted by the Town to conduct stormwater inspections at construction sites with approved SWPPPs located within the Town. Mr. Liegey stated that weekly inspections are conducted by Cameron, which may subsequently be changed to biweekly if the site has demonstrated adequately implemented and maintained stormwater controls. Cameron qualified site inspectors draft an inspection report for each inspection and transmit them electronically to the Town on a monthly basis. When stormwater compliance issues are identified during an inspection, Cameron conveys its findings immediately to the qualified inspector at the site with what changes need to be made. Cameron communicates the issue to the Town if the site fails to make the necessary improvements. Although Mr. Liegey summarized the inspection procedure followed by Cameron inspectors during the audit, the Town of Brookhaven has not developed a written inspection procedure or checklist to be used by Cameron or Town staff if needed.

### Enforcement

The Town has developed a written SWPPP enforcement action procedure (see Attachment G) that outlines standard protocol for enforcement escalation. First, the Town's inspection consultant notifies the project's qualified inspector of deficiencies in SWPPP deficiencies, and then notifies the Town if corrective action is not taken within a reasonable timeframe. If corrective actions are again not taken within a specified deadline, a stop work order is used by the Town to cease all work other than the required corrective measures. The stop work order is confirmed by the Town's engineering inspectors. Once compliance is confirmed in the field by the Town's inspectors and is confirmed in writing, the stop work order is lifted.

## **Town of Brookhaven MS4 (NYR20A411)**

**June 7-9, 2011**

At the time of the audit, two (2) stop work orders had been issued to construction sites in the Town of Brookhaven. The first was issued on July 14, 2010 to Country View Estates for clearing without a SWPPP. The site was shut down for approximately one week until the site was issued a SWPPP Conditional Release by the Town. The second stop work order was issued on October 27, 2010 to Cenacle Sisters for erosion and sediment control deficiencies, which shut down operation until the Town issued a stop work order release letter to Cenacle on November 3, 2010.

No other enforcement actions have been issued by the Town of Brookhaven. The Town does not have a formalized enforcement tracking database, but according to Ms. King, enforcement tracking will be part of the comprehensive construction site database that the Town is in the process of developing.

### Notice of Termination

The Town has developed a written SWPPP Notice of Termination (NOT) procedure (see Attachment H). The written procedure includes the Town receiving and forwarding copies of the as-built surveys to the Town consultants for review, followed by a final site inspection conducted by a Town consultant who will determine if the site is stabilized and is eligible for NOT. If as-builts and final inspection are adequate, the Town consultant will notify the Town and recommend that the Town sign the NOT. The Town Engineering Department then files a memo with the project stating that all SWPPP conditions have been met and that the Planning Department may recommend proceeding to the final Certificate of Occupancy.

### Training

The Town does not provide or document training of local construction operators. Trained contractors are required to take a four-hour training class provided by NYSDEC every three (3) years, per the requirements of the NYSDEC General Permit for Stormwater Discharges from Construction Activity (GP-0-10-001) (CGP or "Construction General Permit"). Town representatives stated that they have the ability to check for documentation of required contractor training during the NOI and SWPPP review process; however, this was not described in SWPPP review procedures provided to EPA at the time of the audit and is not documented by the Town. During the audit, Mr. Liegly confirmed that Cameron contractors have taken the required NYSDEC four-hour training.

### Measurable Goals

Construction Site Stormwater Runoff Control program measurable goals listed in the SWMP Plan include;

- Review 100% of applicable SWPPPs; and
- Inspect 100% of applicable construction sites.

Construction Site Stormwater Runoff Control program measurable goals listed in the 2011 Annual Report include:

- Review 100% of the submitted SWPPP applications;

## **Town of Brookhaven MS4 (NYR20A411)**

**June 7-9, 2011**

- Incorporate SWPPP review procedures into all relevant site plan and sub-division applications for construction sites disturbing one acre or greater;
- Educate construction site owners and operators on BMPs for erosion and sediment control;
- Provide contractor education regarding the SWPPP process and procedures; and
- Provide staff training on current green infrastructure techniques and requirements.

### **2. Field Components:**

During the audit, EPA visited four construction sites in the Town of Brookhaven to assess the Town's implementation of its construction stormwater plan: Cenacle Sisters New Convent and Retreat (private), Renaissance Technologies, LLC (private), the Brookhaven Wastewater Treatment Facility #2 (public) and Eastport Meadows, LLC (private). A fifth site was visited as follow-up to disturbed soil and erosion observed at a private residence on Gully Landing Road. Findings and observations from each site are summarized below.

#### Cenacle Sisters New Convent and Retreat

Cenacle Sisters New Convent and Retreat ("Cenacle"), located at 310 Cenacle Road, Lake Ronkonkoma, is a construction site in the Town of Brookhaven that will disturb a total of 8.1 acres. The site received permit coverage under the NYSDEC general construction permit on March 14, 2010. Hard copies of the inspection reports, SWPPP, NOI and Town SWPPP review and approval letter were reviewed by EPA. Mr. Ed Ryan, a Cameron Engineering inspector, stated that he conducts weekly inspections at this site and conducted his most recent inspection on June 1, 2011. During the audit, Mr. Ryan walked EPA inspectors through his routine inspection procedure, evaluating the conditions of the site's BMPs. EPA inspectors and Mr. Ryan walked the perimeter of the site, which was protected sufficiently on the southern side of the site uphill from Mooney Pond with two (2) rows of silt fencing, haybales and curbing. Northwest and northeast sections of the perimeter silt fencing were being repaired at the time of the inspection. Stormwater runoff from the site enters a catch basin and retention basin system that is designed to store eight (8) inches of precipitation. If overflow occurred from this system, stormwater would flow into Mooney Pond south of the site. Mr. Ryan stated that at an initial site inspection, he reviews all records, such as records of the site's routine site inspections, to check for completeness. During subsequent inspections at the site, Mr. Ryan stated that he only reviews the most recent site inspection report.

Mr. Ryan observed and noted the following items, deficiencies and/or concerns at the site at the time of the audit:

- Mr. Ryan's June 1, 2011 inspection report noted silt fencing in need of repair located in the northeast section of the site; silt fencing was being repaired at the time of the audit; and
- Concrete washout was observed pooling on disturbed soil just north of the silt fencing between the site and Mooney Pond.

## **Town of Brookhaven MS4 (NYR20A411)**

**June 7-9, 2011**

EPA also noted that a soil construction entrance is utilized to drive a vehicle over the curbing and into a parking area within the site. Stormwater could carry soil from this location and enter an adjacent catch basin. At the time of the audit, this catch basin was protected with filter fabric. EPA mentioned to Mr. Ryan that the filter fabric should be checked to ensure it is adequately maintained or the construction entrance should be better stabilized.

### Renaissance Technologies, LLC

Renaissance Technologies, LLC (“Renaissance”), located at 600 Route 25A, East Setauket, is a construction site in the Town of Brookhaven that will disturb a total of 7.4 acres. The site received permit coverage under the NYSDEC general construction permit on June 27, 2009. According to Town records, on June 18, 2009, the Town approved Renaissance’s request to increase the maximum disturbance limit from five (5) acres to ten (10) acres. Hard copies of the inspection reports, SWPPP, NOI and Town SWPPP review and approval letter were reviewed by EPA. Mr. Ryan stated that he conducts weekly inspections at this site and conducted his most recent inspection on June 1, 2011. During the walk-through, Mr. Ryan evaluated the conditions of the site’s BMPs. Renaissance has its own qualified inspector and trained inspector on-site on a daily basis, who were both present at the time of the audit. The qualified inspector stated that he conducts two inspections per week as required for sites disturbing greater than five (5) acres at a time. Renaissance also utilizes a portable truck wash for all vehicles prior to leaving the construction site. EPA inspectors and Mr. Ryan walked the perimeter of the site, which was protected sufficiently with silt fencing. Stormwater runoff from the construction entrance on the northern section of the site can enter catch basins on Limroy Lane that are part of the Town storm sewer system. At the time of the inspection, catch basins on Limroy Lane were protected with fiber rolls.

Mr. Ryan observed and noted the following items, deficiencies and/or concerns at the site at the time of the audit:

- Mr. Ryan’s June 1, 2011 inspection noted removed silt fencing; at the time of the audit the silt fencing was put back in place;
- Mr. Ryan communicated to the trained site inspector that filter fabric in a catch basin located on the southeast section of the site should be cleaned and debris removed; and
- Unstabilized soil stock piles were being removed from the site using trucks at the time of the audit.

EPA did not identify any additional deficiencies at the Renaissance site during the audit.

### Brookhaven Wastewater Treatment Facility #2

Brookhaven Wastewater Treatment Facility #2 (“Brookhaven WTF”), located on Ramsey Road in Shirley, NY, is a Town construction site in the Town of Brookhaven that will disturb a total of 1.2 acres of land. The site does not have permit coverage under the NYSDEC construction general permit. According to Town records, on April 19, 2010 the Brookhaven WTF construction site received a SWPPP exemption letter (now referred to as a “SWPPP Conditional Release”) from the Town that states, “Runoff from site development has no potential for

## **Town of Brookhaven MS4 (NYR20A411)**

**June 7-9, 2011**

discharge into waters of the United States or to a MS4 system that discharges to waters of the United States". EPA walked the site and observed that stormwater discharges from the site would enter dry wells on-site, or enter catch basins on Ramsey Road that discharge to a large, vegetated recharge basin located immediately west of the construction site.

Subsequent to the audit, on June 21, 2011 EPA received a letter from the Town containing the SWPPP Conditional Release letter, topographic map, drainage map and site plans for the Town's Wastewater Treatment Facility #2 in Shirley, NY.

### Eastport Meadows, LLC (private)

Eastport Meadows, LLC ("Eastport Meadows"), located at East Moriches Boulevard and Montauk Highway, Brookhaven, is a construction site in the Town of Brookhaven that will disturb a total of approximately 6.9 acres. The site received permit coverage under the NYSDEC general construction permit on March 14, 2010. Hard copies of the inspection reports, SWPPP, NOI and Town SWPPP review and approval letter were reviewed by EPA. Mr. Ed Ryan stated that he conducts weekly inspections at this site, and his last inspection was on June 2, 2011. According to Mr. Ryan, the June 2, 2011 inspection noted unstabilized material stock piles and a buried catch basin as deficiencies. Mr. Ryan was not present at this site at the time of the EPA inspection. EPA walked the perimeter of the site and observed that stormwater discharges from the site would either flow south from the construction entrance on East Moriches Boulevard then enter a vegetated depression through a culvert, or can flow south to the vegetated depression through a tree line.

EPA noted the following observations and deficiencies at the time of the audit:

- Two unstabilized stock piles of sand were observed on-site;
- Concrete washout spilled in sandy area;
- Coir mats (coconut husk material) were being used over drywells instead of silt fencing, whereas the site SWPPP specifies inlet protection should have stakes with filter fabric around it;
- Perimeter silt fencing was collapsed on the southern edge of the site; and
- Sediment tracking was identified on East Moriches Boulevard, and the construction entrance was in need of maintenance.

### Gully Landing Road (private)

EPA inspectors and the Town conducted an inspection at a private residence located on Gully Landing Road. This inspection was a follow-up to a previous visit in which the Town observed disturbed soil and erosion down a slope from the residence onto Gully Landing Road. The Town had requested that the homeowner take measures to clean up Gully Landing Road and to restore and stabilize the disturbed slope. At the time of the inspection, EPA inspectors observed that Gully Landing Road was free of sediment and that the slope was terraced with vegetation planted.

### **3. Areas of Concern and Recommendations:**

**Town of Brookhaven MS4 (NYR20A411)**

**June 7-9, 2011**

- a) The “Town of Brookhaven, New York Stormwater Management Program Stormwater Pollution Prevention Plan (SWPPP) Guidance Document” should be updated with information from the August 2010 NYS Stormwater Management Design Manual and the SWPPP conditional release process.
- b) The Town’s Erosion and Sediment Control ordinance should be updated to include the Town-issued SWPPP Conditional Release requirements.
- c) The Town’s Erosion and Sediment Control ordinance should be updated to include the requirement for all constructions sites, regardless of size or whether they have been issued a SWPPP Conditional Release, are required to develop an Erosion and Sediment Control Plan.
- d) The Town’s Erosion and Sediment Control ordinance should be updated to include the requirement for construction sites to retain at least three (3) inches of rain on-site, and if the site is over 10 acres, construction sites must retain at least eight (8) inches of rain on-site using dry wells, infiltration basins, and/or retention basins.
- e) The Town’s written procedures should also include review and documentation of the NYSDEC Acknowledgement Letter and permit coverage verification, conditional release inspection practices, and requirements to witness drainage construction.

**4. Potential Violations:**

- a) Part VII.A.4.a.i of the Permit requires that all permittees develop, implement and enforce a program that provides equivalent protection to the NYSDEC Construction General Permit. The deficiencies identified by EPA at the Eastport Meadows construction site are violations of the CGP and must be addressed by the Town. The written SWPPP enforcement action procedure, developed by the Town in accordance with Part VII.A.4.a.ix of the Permit, should be used by the Town and its inspection consultants to ensure that corrective action is taken in a timely manner and that, if necessary, a stop work order is issued to the Eastport Meadows site.
- b) Part VII.A.4.a.ix of the Permit requires all permittees to describe procedures for site inspections and enforcement of erosion and sediment control measures, including steps to identify priority sites for inspection and enforcement based on the nature of construction activity, topography, and the characteristics of soils and receiving waters. A construction site inspection checklist or procedure was not provided to EPA and was not being utilized by the Town at the time of the construction inspections.
- c) Part VII.A.4.a.xi. of the Permit requires all permittees to develop, implement, and enforce a program that ensures that construction site operators have received erosion and sediment control training before they do work within the covered entity’s jurisdiction and maintain records of that training. The Town does not document or track construction operator training and does not have a standard procedure for ensuring all construction site

## **Town of Brookhaven MS4 (NYR20A411)**

**June 7-9, 2011**

operators have proper training. The Town did not include contractor training requirements in the written SWPPP review procedure or in the inspection procedure. The Town also does not ask for wallet cards that document that site operators have completed required training during the initial construction site meeting.

### **D. Pollution Prevention / Good Housekeeping for Municipal Operations**

#### **1. Findings:**

##### Town Facilities and Stormwater Structures

The Town maintains an extensive inventory and mapping system containing data on all Town facilities that they maintain in Geographic Information System (GIS). According to this inventory, the Town owns and maintains over 20 marinas, fishing piers, docks and boat ramps; over 90 parks, cemeteries, green space, and athletic complexes; and approximately 11 beaches. Facility information included in the GIS database includes the facility name, location, type, and tax parcel label. The GIS inventory also includes MS4 system components such as catch basins (approximately 10,000) and flood management structures.

Tighe and Bond, an engineering firm, conducted a thorough stormwater compliance audit on January 25 and 27, 2010, at the Coram, Mastic Beach, Setauket, Miller Place and Rocky Point Highway Department Yards and compiled a stormwater site inspection report dated February 2011. The Town is in the process of reviewing the report, discussing options and then implementing specific recommendations as feasible. Stormwater and pollutant source assessments such as this report have only been conducted at these five (5) Highway Department Yards. Ms. King specified that the Town's next step is to conduct self assessments at all other Town facilities.

##### Vehicles

Vehicle Control, operated under the Waste Management Department, manages the Town's vehicle fleet. The Town Public Safety Department, Highway Department, Parks and Recreation Department, and the Town Fire Marshal all have vehicles. The Town also has some ambulances and a general vehicle pool. The Police Department is run by the County. The Town has acquired a new vehicle maintenance facility, formally a car dealership, for storage and maintenance of Town vehicles. Vehicles are stored at a variety of locations, including Town Hall, Highway Department Garages and the Parks Department Garages. Currently, vehicles are fueled at Collabera Airport, the Holtsville Ecology Center, the Coram Highway Garage, the Public Safety Impound Lot in Mt. Sinai, and at the Town landfill. The Town does not provide vehicle washing, which is the responsibility of the individual driving the vehicle.

A complete equipment inventory was not available at the time of the audit and is not included as part of the SWMP Plan.

##### Parks

## **Town of Brookhaven MS4 (NYR20A411)**

**June 7-9, 2011**

The Parks Department has divided the Town into six (6) wards with a foreman in charge of each. There are six (6) satellite offices and associated storage barns for each ward, which are located in Coram, West Cedar Beach, Fireman's Park, S1 near the Airport, at the Holtsville Ecology Site and at the Bald Hill office.

The Town Parks Department has a Field Operations Book dated 2007 that outlines BMPs used by the Department for maintaining parks and playgrounds, including a Parks Inspection Program. The Parks Inspection Program specifies that each site in the town is inspected for cleanliness and overall conditions at least once during the inspection year, and is applicable to all parks, playgrounds, marinas and beaches. The Field Operations Book also specifies procedures for the proper disposal of various wastes, including composting leaves and other debris. Additionally, for the use of chemical pesticides, a licensed pesticide applicator must be present, and flags must be posted for at least 24 hours. Fertilizers shall be applied in the late summer using a soil test to determine how much and what type of fertilizer to use, and herbicide will be applied in the early spring.

Basic fertilizers are used on the ball fields and park grass and are stored in the storeroom at the parks building in Coram. Materials that are stored in and distributed to and from the storeroom are inventoried, logged, and documented so the storeroom manager knows how much material is distributed to each of the six (6) wards.

Mr. Louis Tsunis, Department of Parks and Recreation, stated that the Town Parks Department limits pesticide use to an as-needed basis, and that there is no set schedule for applications. The Town primarily utilizes a contractor, Armor Pest Control, when a pest problem is identified, typically involving bees or termites. Invoices can be used to track when and where pesticides have been applied. Mr. Tsunis stated that there are not many parks facilities located adjacent to waterbodies, but mostly beaches and marinas, where fertilizers and pesticides are not necessary.

Public restrooms within Town parks and other Town-owned properties are maintained by the Town. Public restrooms have floor drains that drain to a septic tank and are cleaned with over-the-counter cleaning products such as bleach.

Trash enclosures within the Town parks and grounds are maintained by the Parks Department. Garbage is collected on Monday, Wednesday and Friday and brought to the landfill or to one of four (4) roll-off areas in yards, where it is eventually taken to the landfill. The Waste Management Department collects recycling at the Town parks.

### Catch Basin Cleaning

The Town of Brookhaven Highway Department conducts catch basin cleaning and has developed written catch basin cleanout processes and procedures (see Attachment I). The written procedures specify that "Weather and resident calls generate much of the focus for catch basin cleanouts throughout the year. Some routine catch basin cleanout is done in the spring and usually takes place on primary roadways. Contractors will take removed material directly to the landfill, while Town vehicles will take the removed material to a transfer station and then to the landfill." The SWMP Plan does not include catch basin cleanout procedures.

## **Town of Brookhaven MS4 (NYR20A411)**

**June 7-9, 2011**

According to Mr. Jim LaCarrubba, Highway Department Deputy Superintendent, each year beginning in April, the Town travels from one end of the Town to the other, inspecting and cleaning catch basins as needed. There are four (4) general foremen, each with four labor crew members, which are assigned to one of four regions of the Town (northwest, northeast, southwest and southeast). Regular inspections are conducted at Town designated "Hot Spots," or areas where topography and groundwater levels result in frequent flooding. Mr. LaCarrubba stated that Rocky Point is an example of a hot spot that is more frequently visited by the Town for catch basin inspections and maintenance. Each foreman operates with a work order system based on targeting hotspots, inspection findings, and residential complaints.

Mr. LaCarrubba stated that the Town utilizes two (2) dry vacuum trucks and four (4) clamshells. Material removed using the vacuum trucks and clamshells is taken directly to the Town landfill for disposal.

### Street Sweeping

The Town of Brookhaven Highway Department conducts street sweeping on Town right-of-ways and has developed written street sweeping processes and procedures (see Attachment J). Mr. LaCarrubba, specified, in accordance with the written procedure, that the Town Highway Department utilizes 17 Town-owned street sweepers and 5 to 10 rented and contract-hired sweepers. Main roadways are swept first, followed by secondary and tertiary roads. It can take anywhere from 3 to 6 months to sweep the entire town, typically beginning in April after the snow has melted. As sweepers move through the town, they stop at designated areas, such as Highway Yards, to unload their machines. Material is then loaded into a dump truck and taken to the landfill for disposal.

Mr. LaCarrubba stated that street sweeping is conducted every day except when there is a heavy rain event. The Highway Department's goal is to sweep all roads prior to the paving season, but all roads are swept at least annually. This year, the Town began on the western end of each of the four districts and worked its way east. Street sweeping is also conducted after street events such as parades. Material removed from street sweeping and catch basin cleaning is documented through work orders and is also weighed in at the landfill.

Town-owned parking lots are cleaned by the Parks Department. According to the SWMP Plan, there are approximately two (2) acres of municipal parking lots that are swept at least once per year. Parking lot sweeping procedures are not detailed in the Parks Department Field Operations Book.

### Deicing Activities and Salt Storage

The Town uses a 2:1 sand to salt mixture for road deicing. Primary roads are plowed and deiced first, followed by secondary roadways and cul-de-sacs. Streets are broken up into snow districts, and crew leaders for each district are in charge of the grids to make sure the streets are adequately deiced during and after snow events. Salt is stored at the highway yards. Mr. LaCarrubba stated that salt is expensive; therefore, salt is not intentionally over applied and is

## **Town of Brookhaven MS4 (NYR20A411)**

**June 7-9, 2011**

applied only after snow plows are done removing snow. Town representatives stated that salt use could be tracked through purchases; however, salt use is not currently tracked.

### Road Maintenance

According to Mr. LaCarrubba, road construction is contracted out, and as part of the bid specifications, the contractors must cover all catch basins to prevent pollutants from entering the storm sewer system. The Town Highway Department conducts spot patch work, where material from a hot box is placed directly in a hole in the road.

According to NYSDEC, on May 24, 2011, NYSDEC observed the Town Highway Department employees using a petroleum product while performing road maintenance. Furthermore, NYSDEC observed the petroleum product discharging into a catch basin. Mr. LaCarrubba stated that the Town uses diesel fuel to prevent the asphalt from sticking to the roller while performing road maintenance. According to Mr. LaCarrubba, the Highway Department is in the process of developing a written procedure for performing road maintenance that will advise Highway Department employees how to prevent petroleum products and other pollutants from entering the MS4. This procedure will be sent as a memo to all road maintenance workers and each general foreman in the Town Highway Department.

### Spills

Ms. King stated that the Fire Marshal will respond to a Sanitary Sewer Overflow in the Town, and that in the event of a Sanitary Sewer Overflow or other type of spill, the Town notifies the NYSDEC. The Town does not have a formulated written spill response procedure other than the Parks Department Field Operations Book, which specifies that all fuel spills be reported to the nearest garage and that each garage has a sign that identifies a spills coordinator.

### Waste Management

The Town Waste Management Department provides week-long curbside pickup for yard debris (excluding grass) twice in the summer months and once during the spring and fall. Christmas trees are also collected curbside in the winter. Pickup timing is advertised on the Town website. Grass is not collected curbside by the Town but residents can take grass clippings to the Manorville Composting Center or to the Holtsville Nature Center for composting.

Household garbage is picked up by eleven (11) contractors within various contract bid areas and taken to the Town transfer station, then trucked to the Covanta Facility in Hempstead (a Hamlet of Westbury) to be incinerated. The incinerated ash is disposed in the landfill.

The Waste Management Department also coordinates the Town Stop Throwing Out Pollutants (STOP) program to help Town residents properly dispose of household pollutants. The STOP program is advertised in the Green Gazette and on the Town website and began approximately 5 or 6 years ago. Household hazardous waste is collected at the Town landfill and transfer station and is stored in a covered shed prior to proper disposal by Radiac, a licensed hazardous waste hauler. Material brought in is weighed and tracked. The STOP program allows each resident to

## **Town of Brookhaven MS4 (NYR20A411)**

**June 7-9, 2011**

dispose of up to 500 pounds of household waste free of charge, after which the resident is billed according to the weight of what they bring in. Town residents can also drop off electronic waste, which is weighed at the landfill.

Prior to the audit, the Town provided EPA with a handout for residents that specifies that waste oil can be brought to the Manorville Compost Facility, Holtsville Ecology Park and Ralph's Fishing Station for collection. During the audit, however, Ms. Michelle DiBrita stated that she was not aware of a satellite operation where the Town collects hazardous waste.

### Measurable Goals

Pollution Prevention and Good Housekeeping for Municipal Operations program measurable goals listed in the SWMP Plan include:

- Evaluate a number of highway facilities to determine if BMPs are being properly implemented.

Pollution Prevention and Good Housekeeping for Municipal Operations program measurable goals listed in the 2011 Annual Report include:

- Evaluate a number of highway facilities to determine if BMPs are being properly implemented; and
- Create an electronic inventory of stormwater structures in the Town of Brookhaven.

## **2. Field Components:**

### West Meadow Beach

West Meadow Beach, located on the west side of Trustees Road (West Meadow Road) in Setauket, is a Town facility located on the Long Island Sound with restrooms, a beach and a playground. At the time of the audit, the playground was under construction. EPA observed sand stock piles located in a paved portion of the parking lot where they were protected by curbing on two down sloping sides. EPA also observed Town educator Eileen Gerle teaching a group of children on the beach. EPA observed negligible trash, litter and debris at this facility. Floor drains were identified in the restrooms with no apparent exposure to pollutants.

### Port Jefferson Marina, Annex and Mary Bayles Park

Port Jefferson Marina, located at the corner of West Broadway and Main Street in Port Jefferson, is a Town facility with docks, restrooms, boardwalk and boat launch. The Marina, Annex and Mary Bayles Park are all located on the Port Jefferson Harbor. Small white stations were identified along the docks containing electrical plugs and hoses used for cleaning off boats with water. There is no power washing at the marina, and site managers stated that people are not supposed to use soaps and detergents when washing their boats. This was no signage at the time of the audit to help educate the public of this requirement. According to site managers, fuel tanks and holding tanks on-site were removed February 2011. EPA inspected a chemical storage area located in the men's restroom where bleach and disinfectants are stored on the floor and on shelving. EPA also observed floor drains in the restrooms. Southwest of Port Jefferson Marina is

## **Town of Brookhaven MS4 (NYR20A411)**

**June 7-9, 2011**

the Port Jefferson Annex where an administrative building is located adjacent to the boat launch. Mr. Tsunis stated that the boat launch will be reconstructed in 2012. Northeast of Port Jefferson Marina is Mary Bayles Park where there is a gazebo and no docks. EPA observed negligible trash, litter and debris at these facilities.

### Cedar Beach, Marina, Cedar Beach West

Cedar Beach Marina, located on the south side of Harbor Beach Road, Miller Place, is a Town facility located on Mt. Sinai Harbor, with docks, restrooms, a boardwalk and a boat launch. Cedar Beach, located north of the Cedar Beach Marina on Harbor Beach Road in Miller Place, is a Town facility located on Long Island Sound with a beach, restrooms, office and a snack bar. The Town Cedar Beach Nature Center is located west of Cedar Beach and at the time of the audit was closed for renovations. Cedar Beach West, located at the west end of Harbor Beach Road in Miller Place, is a Town facility located on Long Island Sound with a restroom and locker room used primarily by lifeguards. EPA observed negligible trash, litter and debris at these facilities.

### Parks Garage at Cedar Beach, Ward #2

The Parks Garage for Ward #2, located on the south side of Harbor Beach Road in Miller Place, is a Town facility with a garage, dock and active mariculture project. The Parks Garage is located adjacent to Mt. Sinai Harbor. EPA observed two (2) 500 gallon unlabeled tanks on-site at the time of the audit. An on-site Town representative stated that these tanks receive pump-out waste from the boats and are emptied regularly, at least on a weekly basis. He added that boat pump-out use is tracked to monitor levels in the pump-out tanks. EPA observed empty garbage cans, empty gas cans and unopened containers of calcium chloride pellets outside of the garage. EPA also observed a Town employee hosing off woodchips on the bottom of a vehicle with water directly over a drywell on-site located south of the garage bay.

Also present at this location is the Town mariculture facility where according to Ms. King, oysters, clams and scallops are grown and then released into Mt. Sinai Harbor in the fall. There are three (3) pumps that take in saltwater from Mt. Sinai Harbor to supply the mariculture project. Filtered water is discharged from the mariculture project through a pipe back into Mt. Sinai Harbor. Ms. King stated that no food source or treatment is added to the salt water in the Town mariculture process.

### Parks Garage at Coram, Ward #1

The Parks Garage for Ward #1, located on Old Town Road in Coram, is a Town facility with a garage, storeroom, stockpiles, and a welding shop. During the audit, EPA did a walk-through of the site and identified a truck washout station with a dry well located directly beneath it. The dry well was covered with debris at the time of the EPA audit. The on-site representative, Mr. Carl Cantone, Department of Parks and Recreation, stated that this truck washout was no longer in use. EPA also observed a small concrete mixer on-site with spilt concrete on the soil beneath it. The Parks Department houses its supplies at this central location and disperses needed materials to the various wards throughout the Town. Supplies such as Oil Dri absorbent material, Quick Dry concrete, ammonia free glass cleaner, and Sunburst neutral cleaner are kept in the

## **Town of Brookhaven MS4 (NYR20A411)**

**June 7-9, 2011**

storeroom. Gasoline and weed killer are kept in a metal cabinet in the storeroom. Uncovered material stock piles of salt and sand mixtures, brown mulch, aggregate stone, empty RCA barrels, top soil and Fibar (playground mulch) are kept at the southern area of the site. Material stock piles were surrounded on three (3) sides by concrete block walls. EPA observed that stormwater from the northern side of the piles has the potential to run off to dry wells located north of the material stock piles. Mr. Cantone stated that storing salt at this location is abnormal and was the result of excess salt at the end of an unusual winter. At least four (4) dry wells were observed on-site at the time of the audit, and EPA observed one containing significant amounts of sediment. Fertilizer is stored on-site in the garage of the former administrative building. Paint thinner, paints, primer and compressed air tanks were identified stored in the welding shop on-site. No floor drains were observed in the welding shop.

### Corey Creek North, Corey Beach Corey Beach Marina and Blue Point Fishing Pier

Corey Creek North, located on Davis Avenue in Blue Point, is a Town facility with a playground, dock and bulkhead. Corey Beach Marina, located on the south side of Corey Avenue in Blue Point, is a Town facility with docks, boardwalk and boater pump-out on Patchogue Bay. The pump-out at this location is an underground tank that is emptied regularly on an as-needed basis. Corey Beach, located east of the Corey Beach Marina on Patchogue Bay, is a Town facility with restrooms and trash receptacles. Blue Point Fishing Pier, located off Blue Point Avenue in Blue Point, is a Town-owned fishing pier adjacent to wetlands on Patchogue Bay. EPA observed negligible trash, litter and debris at these facilities.

### Sandspit Marina and Beach

Sandspit Marina and Beach, located at the corner of Brightwood Street and Cedar Avenue in Patchogue, is a Town facility with a beach, restrooms, docks, boardwalk and boater pump-outs on Patchogue Bay. EPA observed negligible trash, litter and debris at this facility.

### North Ocean Avenue Garage

The North Ocean Avenue garage, located on North Ocean Avenue just north of the Sunrise Highway, is a new facility that the Town has acquired and is in the process of converting from a former car dealership to a Town garage, which will be used to house and maintain Town vehicles. Mr. Kelsey stated that the plans for the new garage include stormwater considerations such as berms to prevent stormwater runoff. EPA did not observe floor drains in the garage. EPA observed oil stains on the garage floor with oil absorbent material placed over them. A secondary containment area on the south side of the garage was identified by EPA and was being used to store small fuel and oil containers. EPA inspectors observed a dry well located south of the garage, downhill from the vehicle bays.

## **3. Addendum**

Subsequent to the audit, on July 7, 2011 EPA received an email with accompanying photographs from the Town stating that the sand/salt material stock pile at the Parks Garage at Coram, Ward #1 is now covered with a tarp.

**Town of Brookhaven MS4 (NYR20A411)**

**June 7-9, 2011**

**4. Areas of Concern and Recommendations:**

- a) The SWMP Plan should be updated to include a current and complete inventory of vehicles owned by the Town including where they are stored and maintained.
- b) The Parks Department Field Operations Book should include procedures for parking lot sweeping and maintenance.
- c) There is no formal written plan or protocol for handling spills within the Town other than in the Parks Department Field Operations Book. The Town should develop a written plan for handling a variety of spills from small and easily containable spills, to spills of a larger nature where emergency response is called in. The Town's spill control plan should also include and specify varying protocols for the type of spilled liquids, such as flammable, hazardous, etc. A spill control plan can be considered a management practice and procedure that reduces or prevents the discharge of potential pollutants, as described in and required by Part VII.A.6.a.ii of the Permit. Procedures for handling spills should be included in the Town's SWMP Plan.
- d) The Town should implement management practices to prevent spills from entering catch basins and dry wells, and develop a procedure in the event that a spill reaches a storm drain whether or not the drain is a dry well or is connected to the storm sewer or the sanitary sewer. Temporary caps or covers should be considered during road maintenance.
- e) The hazardous waste handout developed by the Town should be updated to accurately reflect where residents can bring hazardous waste for disposal, including waste oil.
- f) The Town should track and analyze data for the material brought in to the transfer station and landfill for the STOP program, waste collection, street sweeping, catch basin cleaning and hazardous materials collection to evaluate the effectiveness of these programs.
- g) The Town should actively ensure that boat washing and maintenance does not occur at the Town marinas unless in compliance with Part VII.A.6.a.viii of the Permit which requires municipal operations and facilities that would otherwise be subject to the NYSDEC Multi-Sector General Permit for Industrial Stormwater Discharges to prepare and implement provisions in the SWMP that comply with Parts III.A, C, D, J, K and L of the MSGP.

**5. Potential Violations:**

- a) Part VII.A.6.a.i of the Permit requires that all permittees must develop and implement a pollution prevention/good housekeeping program for municipal operations and facilities that addresses municipal operations and facilities that contribute or potentially contribute POCs to the small MS4 system. EPA inspectors observed inadequate BMPs at the Parks Garage at Coram-Ward #1, Parks Garage at Cedar Beach-Ward #2, and North Ocean

**Town of Brookhaven MS4 (NYR20A411)**

**June 7-9, 2011**

Avenue Garage. BMPs should be implemented at the following locations for pollution prevention:

- i. Material stock piles at the Parks Garage at Coram-Ward #1 located uphill from dry wells;
  - ii. The dry well downhill from the North Ocean Avenue Garage, where vehicle maintenance occurs; and
  - iii. The dry well in front of Parks Garage at Cedar Beach-Ward #2, where vehicle washing occurs.
- b) Part VII.A.6.a.ii of the Permit requires that all permittees must: at a minimum frequency of once every three years, perform a self assessment of all municipal operations addressed by the SWMP to: determine the sources of pollutants potentially generated by the permittee's operations and facilities; and identify the municipal operations and facilities that will be addressed by the pollution prevention and good housekeeping program, if it is not done already. An assessment of five (5) Highway Department Yards has been conducted. A self-assessment has not been performed by the Town for the remaining Town facilities including but not limited to all Parks Department facilities and all vehicle control facilities.
- c) Part VII.A.6.a.vi of the Permit requires that all permittees develop and implement a pollution prevention / good housekeeping program for municipal operations and facilities that includes an employee pollution prevention and good housekeeping training program and ensures that staff receive and utilize training. The Town does not provide formal in house training and currently does not have an employee pollution prevention and good housekeeping training program. Town employee and contractor training are not regularly scheduled.
- d) Part VII.A.6.e of the Permit requires that all permittees adopt techniques to reduce the use of fertilizers, pesticides, and herbicides, as well as potential impact to surface water. The Town has not documented procedures that reduce the use of fertilizers, pesticides and herbicides other than stating that they apply on an as needed basis as opposed to regularly. The Town should have a standard procedure for applying fertilizers, pesticides, and herbicides that includes how much should be used and a record of how much is actually used. Pesticide (including herbicide) applications and storage must be done in accordance with New York State laws, rules and regulations (Environmental Conservation Law Article 33 and 6NYCRR Part 325). Procedures for applying fertilizers, pesticides, and herbicides should be included in the SWMP Plan.

**E. Additional Requirements (Pathogen and Nitrogen Impaired Watersheds)**

**1. Findings:**

## **Town of Brookhaven MS4 (NYR20A411)**

**June 7-9, 2011**

The Town of Brookhaven is located within nitrogen and pathogen-impaired watersheds including the Peconic Bay, Long Island Sound and South Shore Estuary Watersheds, subject to additional pollution prevention measures, as required by Part IX.D of the Permit.

The Town currently does not have a developed educational program that addresses septic systems as a source of pathogens and nitrogen.

The Town ordinance for Parks and Recreation Areas, Chapter 10, was adopted on June 16, 1987 and includes provisions regarding pet waste on Town property. Pets are not permitted to enter parks designated as beaches, pools, and marinas unless authorized by permit, and in all parks, dogs shall be kept on a leash. Town representatives clarified that pets are not permitted on any town property with the exception of the dog park. A designated dog park ordinance was added by the Town on October 19, 2007 and requires dog owners to be permitted in order for their dog to have access to the park without being kept on a leash. The Town has a bag waste program at the dog park where it provides baggies and the community is actively involved. Public Safety and the Town Environmental Educator (also referred to as a park ranger) enforce this ordinance and have issued many tickets to residents who have had dogs on Town property. As a result of excessive ticketing, the Town has posted signs to alert the public that dogs are not allowed on the premises. Ms. King does not know how many tickets have been issued or if the program is effective. Town representatives stated that the pet waste management signs have been posted too recently to determine if this has made an impact on reducing the number of tickets issued and violations.

The Town ordinance for Feeding Waterfowl and Pigeons, Chapter 10A, was adopted on November 15, 2005 and became effective May 18, 2006. This ordinance made it unlawful to feed waterfowl or pigeons within any town park. Ms. King stated that she is unaware if any tickets have been issued for violating this and that signs are posted in Town parks alerting the public of this ordinance.

### **2. Area of Concern & Recommendation:**

- a) The Town should track tickets issued for violating ordinances that reduce pollutant sources from Town properties, such as the prohibition of dogs on Town property.

### **3. Potential Violations:**

- a) Part IX.C.1.b of the Permit requires that all permittees must develop, or acquire if currently available, specific educational material dealing with sources of pathogens in stormwater and pollutant reduction practices. At a minimum, the educational material should address septic systems, geese and pets as a source of pathogens. The Town currently does not have a developed educational program that addresses septic systems as a source of pathogens.
- b) Part IX.D.1.b of the Permit requires that all permittees must develop, or acquire if currently available, specific educational material dealing with sources of nitrogen in stormwater and pollutant reduction practices. At a minimum, the educational material

## **Town of Brookhaven MS4 (NYR20A411)**

**June 7-9, 2011**

should address septic systems as a source of nitrogen and nitrogen concerns with fertilizer use. The Town currently does not have a developed educational program that addresses septic systems as a source of nitrogen.

- c) Part IX.D.6.a of the Permit requires that all permittees must develop a turf management practices and procedures policy that addresses procedures for proper fertilizer application on municipally-owned lands and the planting of native material to lessen the frequency of mowing and reduce the use of chemicals to control vegetation. As previously stated in Part D.4.(d) of this audit report, the Town has not developed any written policies or procedures for the application of fertilizers. A turf management practices and procedures policy that addresses procedures for proper fertilizer application and planting native materials must be developed, in addition to the adopted techniques required by Part VII.A.6.e of the Permit, and should be included in the Town's SWMP Plan.

### **F. Annual Report Review**

#### **1. Findings:**

Ms. King stated that Annual Reports completed in previous years were done by Cornell Cooperative Extension except the 2011 Annual Report which was completed by the Town.

Ms. King stated that each year, finalized annual reports are reported to NYSDEC and posted on the Town's website for public review. If public comments are made on the posted annual report, comments are incorporated into the next year's annual report. Ms. King stated that the Town has not received a public comment on the annual reports posted since she has been employed by the Town.

As indicated in Parts B, C, and D of this audit report, measurable goals for the MCMs listed in the 2011 Annual Report are not consistent with the measurable goals listed in the most current SWMP Plan. The SWMP Plan should be revised with updated measurable goals on an annual basis. Furthermore, changes to measurable goals must be accompanied with written justification in the Annual Report. Upon review of the 2011 Annual Report, EPA noted that the 2011 Report did not contain the following measurable goal that was listed in the 2010 Annual Report: "Inspect 25% of the active construction site stormwater runoff control compliance." No justification for omission was provided; however, the Town also reported that 100% of active construction sites were inspected more than once in 2010 and 2011 and reflected in the Annual Reports for each year.

During the audit, Town representatives stated that pesticides are used on an as needed basis; however, in 2010 and 2011 annual reports, the Town reported zero (0) for the amount of pesticides used in the reporting period. The Town SWMP Plan states "Brookhaven has made efforts to limit the amount of fertilizers and pesticides used...The Town does not apply pesticides on any of their parks or properties."

**Town of Brookhaven MS4 (NYR20A411)**  
**June 7-9, 2011**

The audit team also reviewed the dates that the last five (5) Annual Reports were received by NYSDEC. Two of the five required Annual Reports were received late. According to the permit, the annual deadline for submittal of annual reports is by June 1 of the reporting year. Below is a summary of when the last five (5) Annual Reports were received by NYSDEC:

Annual Report Year	Period Covered	Date Report is Due	Date Report Received by NYSDEC	Days Late
2007	March 10, 2006 to March 9, 2007	June 1, 2007	May 29, 2007	Not Late
2008	March 10, 2007 to March 9, 2008	June 1, 2008	September 16, 2008	107
2009	March 10, 2008 to March 9, 2009	June 1, 2009	October 30, 2009	151
2010	March 10, 2009 to March 9, 2010	June 1, 2010	June 1, 2010	Not Late
2011	March 10, 2010 to March 9, 2011	June 1, 2011	May 23, 2011	Not Late

**2. Areas of Concern and Recommendations:**

- a) The SWMP Plan is not consistent with the measurable goals listed in the 2011 Annual Report. The SWMP Plan should be up to date with current measurable goals.
- b) The Annual Reports and SWMP Plan should be consistent with what procedures the Town currently utilizes regarding pesticide use and application and accurately reported in the Annual Report.

**3. Potential Violations:**

- a) Part V.C.1 of the Permit requires that the Annual Report to be received by NYSDEC no later than June 1 of each reporting year. Two of the past five Annual Reports were not submitted to NYSDEC by the June 1 of the reporting year deadline.
- b) Part V.C.3 of the Permit requires all permittees to include any change in identified BMPs or measurable goals and justification for those changes in the Annual Report. The Town did not include justifications for omitting or adding measurable goals in Annual Reports.

EPA has developed guidance for developing measurable goals that the Town of Brookhaven may want to review for implementation in its own program. The guidance is available on EPA's website at

**Town of Brookhaven MS4 (NYR20A411)**

**June 7-9, 2011**

<http://cfpub.epa.gov/npdes/stormwater/measurablegoals/index.cfm> and at  
<http://cfpub.epa.gov/npdes/stormwater/measurablegoals/ex6.cfm#develop>.

- c) Part VII.A.2.d.i of the Permit requires that all permittees must, prior to submitting the final annual report to the department, present the draft annual report in a format that is open to the public, where the public can ask questions about and make comments on the report. Although the Town posts submitted Annual Reports on the Town website, the Town procedure currently does not allow public comments to be incorporated into a draft Annual Report.

**Town of Brookhaven MS4 (NYR20A411)**  
**June 7-9, 2011**

**ATTACHMENT A**

**Town of Brookhaven MS4 (NYR20A411)**  
**June 7-9, 2011**

PAGE INTENTIONALLY LEFT BLANK

**AGENDA FOR MS4 AUDIT  
TOWN OF BROOKHAVEN MS4  
June 7, 2011 – June 9, 2011**

***Tuesday, June 7, 2011***

**10:00 – 10:30 am      Opening/Kick-off Conference**

Introductions, overview of audit process, goals and benefits, review schedule  
Location: Town Hall

**10:30 – 12:00 pm      Program Management, Effectiveness and Assessment  
Agreements with other municipalities**

Review program management and agreements with other municipalities and entities  
Location: Town Hall

**1:30 – 3:00 pm      Pollution Prevention/Good Housekeeping**

Interview of appropriate staff and review records; finalize facilities to later evaluate  
Location: Town Hall

**3:00 – 5:00 pm      Construction Site Stormwater Runoff Control**

Interview of appropriate staff and review records including review of ordinances and related enforcement; select active construction sites for later observation of compliance inspections  
Location: Town Hall

***Wednesday, June 8, 2011***

**8:30 – 12:00 pm      Field component – Construction Stormwater Management**

Observe MS4 staff as they conduct inspections at construction sites (mix of both public and private, small and large sites, residential and commercial, etc)  
Location: TBD

**1:15 – 5:00 pm      Field Component for MS4 Maintenance activities**

Inspection of Municipal Yards, Parks, Marinas etc. observing facility & maintenance work  
Location: TBD

*\*\*please note that we can intersperse MS4 maintenance and construction activities throughout the day depending on how spread out the sites are\*\**

***Thursday, June 9, 2011***

**8:30 – 10:00 am      Complete any outstanding interviews, field work and review additional records, if any**

Location: Town Hall

**10:30 – 12:00 am      Closing Conference**

Location: Town Hall

**Town of Brookhaven MS4 (NYR20A411)**  
**June 7-9, 2011**

**ATTACHMENT B**

**Town of Brookhaven MS4 (NYR20A411)**  
**June 7-9, 2011**

PAGE INTENTIONALLY LEFT BLANK

Prior to conducting the audit, EPA Region 2 reviewed the following program materials received from the Town of Brookhaven and NYSDEC:

- 1) NYSDEC SPDES General Permit for Stormwater Discharges from Small Municipal Separate Storm Sewer Systems (MS4s), Permit Number GP-0-10-002
  - a. Effective Date: May 1, 2010
  - b. Expiration Date: April 30, 2015
- 2) NYSDEC SPDES General Permit for Stormwater Discharges from Small MS4s, Permit Number GP-08-002
  - a. Effective Date: May 1, 2008
  - b. Expiration Date: April 30, 2010
- 3) NYSDEC SPDES General Permit for Stormwater Discharges from Construction Activity, Permit Number GP-0-10-001
  - a. Effective Date: January 29, 2010
  - b. Expiration Date: January 28, 2015
- 4) Town of Brookhaven Stormwater Management Program Plan, Dated December 2010
- 5) Town of Brookhaven Annual Reports for 2006, 2007, 2008, 2009 and 2010
- 6) Town of Brookhaven Local Law for Dog Control and Animal Welfare, Chapter 23, Adopted June 16, 1987, Amended September 9, 2008, Effective September 17, 2008
- 7) Town of Brookhaven Local Law for Feeding Waterfowl and Pigeons, Chapter 10A, Adopted November 15, 2005, Effective May 18, 2006
- 8) Town of Brookhaven Local Law for Stormwater Management and Erosion Control, Chapter 86, Adopted January 22, 2008, Effective January 30, 2008
- 9) Town of Brookhaven Local Law for Parks and Recreation Areas, Chapter 10, Adopted June 16, 1987
- 10) West Meadow Creek Management Plan, Dated March 2001
- 11) Mt. Sinai Harbor Stormwater Improvement Project, Dated February 2003
- 12) Swan River Watershed Management Plan, Dated March 2007
- 13) Mt. Sinai Harbor Management Plan, Dated December 2007
- 14) Conscience Bay and Setauket Harbor Stormwater Management Plan, Dated March 2009
- 15) Town of Brookhaven organizational chart
- 16) Town of Brookhaven Maps
  - a. MS4s within the Town of Brookhaven
  - b. Receiving waters
- 17) List of active construction sites greater than 1 acre
- 18) List of stormwater construction inspections conducted on behalf of Town
- 19) List of SWPPP related enforcement actions
- 20) List of current industrial facilities
- 21) List of Town owned/operated facilities
- 22) Town of Brookhaven MS4 training summary
- 23) Town of Brookhaven website (<http://www.brookhaven.org/>)
- 24) Town educational and informational handouts regarding:
  - a. Great Brookhaven Clean Up
  - b. Hazardous Household Waste
  - c. West Meadow Beach Environmental Programs
- 25) 2010 Brookhaven Recreation Guide
- 26) Town of Brookhaven Pollution Prevention Requirements for Construction Projects
- 27) Tighe and Bond Stormwater Site Inspection Report Draft, February 2011

**Town of Brookhaven MS4 (NYR20A411)**  
**June 7-9, 2011**

**ATTACHMENT C**

**Town of Brookhaven MS4 (NYR20A411)**  
**June 7-9, 2011**

PAGE INTENTIONALLY LEFT BLANK

During the audit, the Town of Brookhaven provided EPA Region 2 copies of the following additional program materials:

- 1) Extensive list of Town owned/operated facilities
- 2) Conditional release package for Brookhaven Wastewater Treatment Facility #2 construction site
- 3) Conditional release package for A&W Realty construction site
- 4) Conditional release package for Defense Hill construction site
- 5) Highway Department written street sweeping process and procedure
- 6) Highway Department written catch basin cleanout process and procedure
- 7) SWPPP Notice of Termination (NOT) written procedures
- 8) SWPPP Review Checklist developed by Cameron Engineering and Associates, LLP
- 9) SWPPP Enforcement Action written procedures
- 10) SWPPP Conditional Release Review Requirements and written procedures
- 11) Town Board June 9, 2011 Agenda
- 12) Town of Brookhaven Notice of Intent
- 13) Parks and Recreation Field Operations Book, dated 2007
- 14) Town of Brookhaven Maps
  - a. Town owned/operated facility maps
  - b. Land use maps

**Town of Brookhaven MS4 (NYR20A411)**  
**June 7-9, 2011**

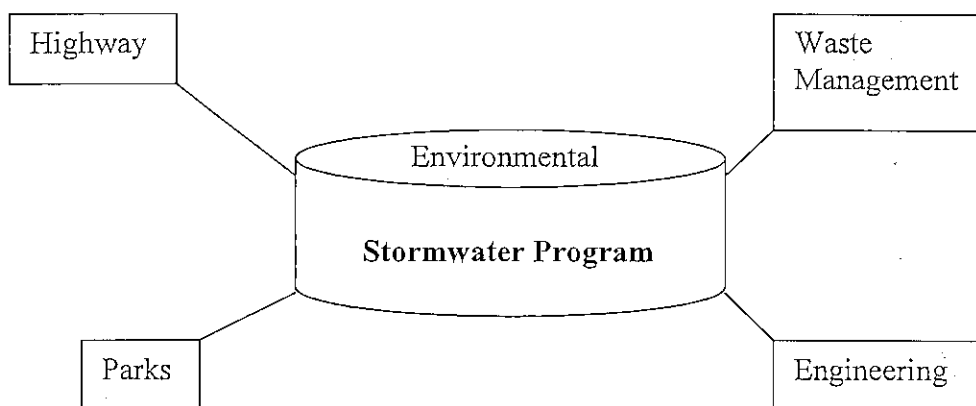
**ATTACHMENT D**

**Town of Brookhaven MS4 (NYR20A411)**  
**June 7-9, 2011**

PAGE INTENTIONALLY LEFT BLANK

### Town of Brookhaven Stormwater Program Organizational Chart

*The Town's stormwater program is managed out of the Division of Environmental Protection. However it takes a coordinated effort between numerous Town departments to fully implement the program.*



#### *Implementation of the Six Minimum Control Measures:*

##### Minimum Control Measure 1: Public Education

Environmental Protection, Waste Management, and Highway (Ecology Site)

##### Minimum Control Measure 2: Public Participation

Environmental Protection, Parks, Waste Management, and Highway (Ecology Site)

##### Minimum Control Measure 3: IDDE

Environmental Protection, Engineering, and Highway

##### Minimum Control Measure 4: Construction Management

Environmental Protection and Engineering (SWPPP review is contracted out)

##### Minimum Control Measure 5: Post Construction Management

Environmental Protection and Highway

##### Minimum Control Measure 6: Good Housekeeping

Environmental Protection, Parks, Waste Management, and Highway

*Key Staff Members:*

Environmental Protection\*

Jeffrey Kassner, Director

Veronica King, Stormwater Manager

Engineering\*

Gregg Kelsey, Assistant Town Engineer

Highway

John Rouse, Superintendent

Lori Baldassare, Deputy Superintendent

Jim LaCarrubba, Deputy Superintendent

Parks

Ed Morris, Commissioner

Thomas Owens, Deputy Commissioner

John Leonard, Deputy Commissioner

Waste Management

Matt Miner, Commissioner

Ed Hubbard, Deputy Commissioner

\*Environmental Protection and Engineering are housed within the joint Department of Planning, Environment and Land Management (PELM): Tullio Bertoli, Commissioner

**Town of Brookhaven MS4 (NYR20A411)**  
**June 7-9, 2011**

**ATTACHMENT E**

**Town of Brookhaven MS4 (NYR20A411)**  
**June 7-9, 2011**

PAGE INTENTIONALLY LEFT BLANK

## **SWPPP Conditional Release Review Requirements**

1. Request for a conditional release from SWPPP must be made in writing to the Stormwater Manager or Assistant Town Engineer.
2. Written request for a conditional release from SWPPP must provide the following information:
  - a. Background information about the scope of the project, including location, type and size of project;
  - b. The name(s), address(es), telephone and fax number(s) of the applicant, developer, and/or property owner, and the principal contact person of the retained consulting firm responsible for monitoring daily compliance in accordance with the provisions of Town code;
  - c. Site map/construction drawing(s) for the project, including a general location map at a scale not less than one inch equals 2,000 feet. The site map must be at a scale no smaller than one inch equals 50 feet. At a minimum, the site map should show the total site area; all improvements; areas of disturbance; areas that will not be disturbed; existing vegetation; on-site and adjacent off-site surface water(s); wetlands and drainage patterns that could be affected by the construction activity; existing and final slopes; locations of off-site material, waste, borrow or equipment storage areas; and location(s) of the stormwater discharge(s); and
  - d. Description of the soil(s) present at the site.
3. Documentation in support of a conditional release must provide evidence to support the theory that runoff from the project site cannot, by any means, discharge to waters of the state as defined by Town code, or an MS4 system that discharges to waters of the state, and must include:
  - a. project design plans;
  - b. aerial photos of the project area;
  - c. site photos;
  - d. relief maps made from 2007 (or newer) LIDAR digital terrain modeling, or the like;
  - e. existing road plans and profiles, if available; and
  - f. the results of infiltration testing completed in accordance with design manual guidelines.
4. Development activities within TMDL or NYS 303-d listed watersheds do not qualify for a conditional release of SWPPP.
5. Sites are reviewed for the following conditions:
  - a. overflow points;
  - b. road frontage;
  - c. drainage design of road and site;
  - d. storage capacity of drainage requiring 5" or 8" of storage (depending on type of application) – pre & post construction conditions under worst case scenarios;
  - e. potential overflow to recharge basins; and
  - f. recharge basin capacity, if relevant, for existing and future development.

**Town of Brookhaven MS4 (NYR20A411)**  
**June 7-9, 2011**

**ATTACHMENT F**

**Town of Brookhaven MS4 (NYR20A411)**  
**June 7-9, 2011**

PAGE INTENTIONALLY LEFT BLANK



# CAMERON ENGINEERING & ASSOCIATES, LLP

100 Sunnyside Boulevard, Suite 100  
Woodbury, NY 11797  
(516) 827-4900

260 Madison Avenue, 8th Floor  
New York, NY 10016  
(212) 324-4000

[www.cameronengineering.com](http://www.cameronengineering.com)

*"LEED Accredited Professionals"*

Active Member of  
**ACEC New York**  
Association of Consulting Engineers and Architects

*Managing Partner*  
John D. Cameron, Jr., P.E.

*Senior Partner*  
Joseph R. Amato, P.E.

*Partners / Principals*  
Mark Wagner, CEP  
Janice Jijina, P.E., AICP  
Nicholas A. Kumbatovic, P.E.  
Kevin M. McAndrew, R.L.A.  
Alan J. King, Jr., P.E.

*Senior Associate*  
Glenn DeSimone, P.E., CPE

*Associates*  
Robert E. Wilkinson, P.E.  
Steven R. Giammona, P.E.

## MEMORANDUM

To: Mr. Gregg Kelsey  
Town of Brookhaven

From: Mark Liegey, P.E.  
Cameron Engineering & Associates, LLP

Re: [Project Name]  
Preliminary SWPPP Review  
Town of Brookhaven Log #[xxxxxxx]  
CE # 1497D – xxx

Date: XXXXXXXX

---

As requested, Cameron Engineering & Associates, LLP has reviewed the submitted Storm Water Pollution Prevention Plan for [Project name]. The items checked below are missing from the submission and must be addressed before our review can be completed.

### General SWPPP Information:

- ☐ Completed Notice of Intent Application
- ☐ Completed MS4 SWPPP Acceptance Form
- ☐ Description of erosion and sediment control practices for use at the project site.
- ☐ Description of post-construction stormwater management practices that will be used and/or constructed to reduce pollutants in stormwater discharges.
- ☐ Identification of potential sources of pollution which may reasonably be expected to affect the quality of stormwater discharges.
- ☐ SWPPP prepared pursuant to the terms and conditions of the New York State Department of Environmental Conservation SPDES General Permit for Stormwater Discharges from Construction Activity (GP-0-10-001).

# CAMERON ENGINEERING & ASSOCIATES, LLP

Mr. Gregg Kelsey  
Town of Brookhaven

Date  
Page 2 of 3

## Erosion and Sediment Control Information:

- ☐ Background information about the project scope, including the location, type and size of the project
- ☐ Site map/construction drawings(s) for the project, including a general location map.
- ☐ Description of soil(s) present at the site, including an identification of the Hydrologic Soil Group (HSG)
- ☐ Construction phasing plan and sequence of operations describing the intended order of construction activities
- ☐ Description of the erosion and sediment control practices to be installed or implemented for each construction activity that will result in soil disturbance.
- ☐ Temporary and permanent soil stabilization plan the meets the requirements of the most current version of the technical standard, New York Standards and Specifications for Erosion and Sediment Control, for each stage of the project.
- ☐ A site map/construction drawing(s) showing the specific location(s), size(s) and length(s) of each erosion and sediment control practice.
- ☐ Dimensions, material specifications, installation details, and operation and maintenance requirements for all erosion and sediment control practices.
- ☐ Inspection schedule.
- ☐ Description of the pollution prevention measures that will be used to control litter, construction chemicals, and construction debris from becoming a pollutant source.
- ☐ Description and location of any stormwater discharges associated with industrial activity other than construction at the site, including, but not limited to, stormwater discharges from asphalt plants and concrete plants located on the construction site.
- ☐ Identification of any elements of the design that are not in conformance with the technical standards, New York State Standards and Specifications for Erosion and Sediment Control. Identification of compliance with Green Infrastructure Techniques and Standard SMPs. Include the reason for the deviation or alternative design and provide information which demonstrates that the deviation or alternative design is equivalent to the technical standards.

# CAMERON ENGINEERING & ASSOCIATES, LLP

Mr. Gregg Kelsey  
Town of Brookhaven

Date  
Page 3 of 3

## Post Construction Stormwater Management Practice Information:

- ☐ Identification of all post-construction stormwater management practices.
- ☐ A site map/construction drawing(s) showing the specific location and size of each post-construction stormwater management practice.
- ☐ The dimensions, material specifications and installation details for each post-construction stormwater management practice.
- ☐ Identification of any elements of the design that are not in conformance with the Design Manual. Include the reason for the deviation or alternative design and provide information which demonstrates that the deviation or alternative design is equivalent to the technical standards.
- ☐ Hydrologic and hydraulic analysis for all structural components of the stormwater management control system.
- ☐ Detailed summary (including calculations) of the sizing criteria that was used to design all post-construction stormwater management practices.
- ☐ An operations and maintenance plan that includes inspection and maintenance schedules and actions to ensure continuous and effective operation of each post-construction stormwater management practice.

## Additional Comments:

☐ [Enter notes]

Or

No additional comments. Submission is adequate to conduct review.

Should you have any questions or require additional information, please do not hesitate to contact this office.

**Town of Brookhaven MS4 (NYR20A411)**  
**June 7-9, 2011**

**ATTACHMENT G**

**Town of Brookhaven MS4 (NYR20A411)**  
**June 7-9, 2011**

PAGE INTENTIONALLY LEFT BLANK

### **SWPPP Enforcement Action**

1. Town's inspection consultant notifies the project's qualified inspector of deficiencies in SWPPP measures.
2. If corrective actions are not taken within a reasonable time frame, then the consultant notifies the Town with a request to address the issues with the contractor.
3. Town engineering inspectors inform the contractor of the SWPPP deficiencies, with a stated deadline for compliance.
4. If compliance is not met by the stated deadline, a stop work order is issued.
5. With the exception of the required corrective measures, all work is ordered to cease on the project.
6. Enforcement of the stop work order is confirmed by the Town's engineering inspectors.
7. The contractor must notify the Town once site has been restored to a compliant state.
8. Compliance is confirmed with a field inspection conducted by the Town's inspection consultant.
9. The stop work order is lifted once written compliance is confirmed.

**Town of Brookhaven MS4 (NYR20A411)**  
**June 7-9, 2011**

**ATTACHMENT H**

**Town of Brookhaven MS4 (NYR20A411)**  
**June 7-9, 2011**

PAGE INTENTIONALLY LEFT BLANK

### **SWPPP Notice of Termination (NOT) Procedures**

1. Applicant notifies the Town that the site has achieved final stabilization and is ready to proceed with the NOT process.
2. Applicant submits the NOT application with five copies of as-built surveys to the Town.
3. Town forwards two copies of as-built survey to Town SWPPP review consultant; three copies are retained by the Town for CO sign off.
4. The SWPPP engineer of record and Town consultant conduct a final site inspection. The site is observed to determine eligibility for NOT.
5. As-built surveys are reviewed for compliance with SWPPP requirements and issuance of CO's (or final sign off).
6. Town consultant reviews as-built survey for conformance with the following SWPPP requirements and permanent stormwater control measures:
  - a. maintenance requirements; and
  - b. determination of covenants and restrictions for permanent erosion control measures, and maintenance and inspection requirements of stormwater control measures.
7. Consultant will notify the Town if changes to as-built surveys are required. All changes must be submitted to the Town for review and approval before moving forward with NOT process.
8. Town consultant recommends final NOT sign-off to the Town.
9. A request, if required, to file covenants and restrictions is forwarded to the applicant.
10. Applicant submits covenants to Town Clerk.
11. Town Clerk forwards covenants to Engineering and Law department for review and approval.
12. Approval memos are forwarded to Town Clerk for filing.
13. Applicant must provide the Town with proof of filing with the Suffolk County Clerk's Office.
14. Upon receipt of proof of filing, NOT is signed, and cover memo submitted to applicant with original signed NOT.
15. Applicant will be directed, via cover memo, to send the signed NOT to NYSDEC, and submit a copy of the acknowledgement letter from NYSDEC to the Town for their files.
16. Engineering files a memo with the project, stating that all SWPPP conditions have been met and that the Planning Department may recommend proceeding to final CO.

**Town of Brookhaven MS4 (NYR20A411)**  
**June 7-9, 2011**

**ATTACHMENT I**

**Town of Brookhaven MS4 (NYR20A411)**  
**June 7-9, 2011**

PAGE INTENTIONALLY LEFT BLANK

**TOWN OF BROOKHAVEN  
HIGHWAY DEPARTMENT**

**CATCH BASIN CLEANOUT PROCESS  
AND PROCEDURE**

The Brookhaven Highway Department maintains thousands of catch basins throughout the town. The following is a brief description of how our process works.

Throughout the year, as crews move through the town, basin covers are routinely cleared if debris is sighted. Resident complaints also help us identify basins that may be blocked, and we take care of those issues expeditiously.

Weather and resident calls generate much of the focus of our catch basin cleanouts. Certain areas of the town, based on topography and groundwater levels, are monitored and inspected regularly to make sure those basins are clear. "Hot Spots" are kept by general foremen within their areas for regular monitoring.

Some routine basin cleanout is also done during the spring due to the material from the winter months making their way into our catch basins. This routine work usually takes place along our primary roadways because of the amount of traffic and debris that can be generated along them.

The town utilizes trucks within our own fleet for some of the basin cleanout work, and we also utilize contracted vacuum trucks as well. The contracted vendors, at the end of their day, take the material they removed from basins directly to the landfill for disposal. Town vehicles bring materials to a designated location for transfer and disposal of the material that they have collected.

**Town of Brookhaven MS4 (NYR20A411)**  
**June 7-9, 2011**

**ATTACHMENT J**

**Town of Brookhaven MS4 (NYR20A411)**  
**June 7-9, 2011**

PAGE INTENTIONALLY LEFT BLANK

**TOWN OF BROOKHAVEN  
HIGHWAY DEPARTMENT**

**STREET SWEEPING PROCESS  
AND PROCEDURE**

Each year, the Highway Department uses varying amounts of salt/sand material in order to maintain safety on our more than 2,500+ miles of roadway during the winter months. In the spring, this department begins the process of removing this material from the roadways, as it becomes a slip hazard in some cases and can make its way into our drains causing flooding and other problems. The following is a brief description of how our process works.

Depending on when the weather changes and the snow season is concluded, we prepare for sweeping season. This usually begins sometime in early April. The Highway Department has approximately 17 sweepers that are owned by the town, and we also utilize anywhere between 5 and 10 rented and hired sweepers depending on the season to help us remove material from our roads. The general foremen for the areas assign the sweepers to sections of the town (in no specific order). As neighborhoods are completed, others are started until the area is complete. Main roadways are done first, secondary and tertiary roads are done next. It can take anywhere from 3 to 6 months to sweep the entire town, with the weather, the amount of material used that season and sweeper maintenance being the main unknown factors as we go through the process.

As sweepers move through the town, they stop at designated areas to unload their machines and then they continue sweeping. Sweepings left at these specified locations are loaded into dump truck and taken to the landfill for disposal.